

This Report will be made public on 28 September 2020

Report Number **OS/20/08**

To: Overview and Scrutiny Committee
Date: 6 October 2020
Status: Non executive decision
Responsible Officer: Susan Priest, Chief Executive

SUBJECT: CHANGES TO OVERVIEW AND SCRUTINY COMMITTEE

SUMMARY: This report sets out a proposed work programme for Overview and Scrutiny work, which had been put together with the assistance of the Centre for Public Scrutiny (CfPS). The report also sets out proposals for the creation of a Finance and Performance Scrutiny Sub-Committee, including its terms of reference and membership. Approval is also sought for the proposed meeting dates, and adoption of a "Cabinet and Overview and Scrutiny Member's protocol" and its subsequent submission to Cabinet

RECOMMENDATIONS:

1. To receive and note report OS/20/08.
2. To adopt and implement the Scrutiny work programme, set out in paragraph 2.3 of the report, until the next annual meeting of the Council.
3. To submit the Workplan to the next available extraordinary meeting of the Council for endorsement.
4. To create a Finance and Performance Scrutiny Sub-Committee, with the terms of reference as set out at appendix 1 of the report, and:
 - a. Appoint five Overview and Scrutiny Members to the Sub-Committee for the remainder of the municipal year.
 - b. Elect a Chairman for the Sub-Committee for the remainder of the municipal year.
5. To agree to the meeting dates for Overview and Scrutiny and its Sub-Committee meetings, as set out in paragraph 4 of the report.
6. To adopt the Cabinet/Overview and Scrutiny Member's protocol, as set out at appendix 2 of the report and to submit it to Cabinet for its approval.

1. **BACKGROUND**

- 1.1 On 25 September 2019, a motion was put to Full Council regarding a review of the council's governance arrangement. The Council subsequently agreed that a cross party working group of all group leaders be set up to consider the issues of moving to a committee system, or an alternative system.
- 1.2 The working group met twice in November 2019, and it was made clear that Members did not feel that Overview and Scrutiny arrangements were fit for purpose.
- 1.3 Ian Parry from the Centre for Public Scrutiny was commissioned to assist with a review of the Council's Scrutiny arrangements. A series of workshops were held with all Members back in February and March 2020, As a result of these workshops, various changes were proposed.
- 1.4 On 19 May 2020, the Overview and Scrutiny received a presentation, led by the Chairman, setting out proposals for changes to the Committee processes. These changes were as follows:
 - Reduction in number of meetings of the Overview and Scrutiny Committee from 11 to 5 or 6 per year.
 - Creation of a finance and performance sub-group to meet quarterly.
 - A committee work plan to include about 12 clearly scoped topics, allowing for detailed consideration of two topics per meeting.
 - Work plan topics to have clear lines of enquiry, questions, and to draw on external expertise as necessary.
 - Members to lead the items at Scrutiny meetings.
 - Call-in function remains available.

This report seeks to implement these changes.

2. **SCRUTINY WORK PLAN**

- 2.1 On Thursday 30 July, Ian Parry from the Centre for Public Scrutiny held a workshop with Members of both the Overview and Scrutiny Committee, and the Cabinet, to build a future Scrutiny work plan. Members of the Overview and Scrutiny Committee were given a list of items, made up of topics from various sources, including the Corporate Plan, Member ideas, Community concerns, and Cabinet forward decisions.
- 2.2 Overview and Scrutiny Members were then invited to score each item from 1-5 (5 highest, 1 lowest), based on each of the following criteria:
 - High general public concern,
 - Critical to council priorities and plans,
 - High financial value,
 - Risks in successful delivery.
- 2.3 Based on this, the nine highest scoring items were selected for the Scrutiny workplan. Nine items would make up the main workplan, with an additional

three in 'reserve' for the Committee. These 'reserve' items will allow for some flexibility in the workplan, in the event that the Committee is required to consider other urgent matters.

The selections are shown in the table below.

SCORING SYSTEM	RANK
Otterpool Park - Business plan	1
FHDC COVID recovery plans – economy/community/environment	2
Folkestone Town Centre Regeneration	3
HRA Business Plan	4
Housing – HRA Asset Management Framework	5
Updates from the Working Groups	6
Other Housing – Housing Options; Private sector housing	7
Homelessness Strategy	8
Corporate Plan	9
The items below will be held in reserve :	
Housing Tenant & Leaseholder Liaison Strategy	10
S106 decision making, prioritisation and processes	11
Unauthorised encampments – policy shaping	12

- 2.4 In addition to the items selected, the Overview and Scrutiny Committee has a statutory requirement to act as the Council's Crime and Disorder Committee and to meet for that purpose at least once a year.
- 2.5 It is the intention that the Committee would consider two items per meeting (with only six meetings per year). In addition, the work plan must allow some flexibility, allowing for Members to make suggestions for topics throughout the course of the year.
- 2.6 The Overview and Scrutiny Committee are asked to endorse the Scrutiny Workplan.
- 2.7 It should be noted that in normal circumstances the annual workplan of the committee is approved by the annual meeting of the Council. As it is unclear when the next Annual meeting of the Council will be held, it is suggested that the workplan be submitted to the next available extraordinary meeting of the Council for endorsement.

3. CREATION OF SUB-GROUP

- 3.1 Part of the proposed changes to the Overview and Scrutiny Committee include the creation of a Finance and Performance Scrutiny Sub-Committee. It is intended the Sub-Committee would be formed of 5 members, drawn from the Overview and Scrutiny Committee to ensure fair

political representation, with a quorum of three members. The Sub-Committee would meet quarterly, to consider budget and performance monitoring reports.

3.2 The political split of membership is shown below:

Conservative	2
Green	1
Labour	1
Lib Dem *	0.5
Ukip *	0.5
Total	5

*The group leaders of the Liberal Democrats and UKIP have been asked to discuss who should be the member on the sub – committee.

The suggested terms of reference are shown at Appendix 1.

3.3 Members are required to appoint five Overview and Scrutiny Members to the Sub-Committee, and elect a Chairman, for the remainder of the municipal year.

The following nominations have been put forward by Group Leaders:

Cons	Councillor Gane Councillor Rolfe
Green	Councillor Shoob
Labour	Councillor McConville
Lib Dem	Councillor Fuller
UKIP	N/A

4. MEETING DATES

The proposed schedule of meetings for the remainder of the municipal year is shown below:

Overview and Scrutiny Committee:

1 December 2020

16 February 2021

30 March 2021

Finance and Performance Scrutiny Sub-Committee:

3 November 2020

12 January 2021

27 April 2021

5. CABINET/OVERVIEW AND SCRUTINY MEMBER PROTOCOL

- 5.1 Following on from a further recommendation from the Centre for Public Scrutiny, a Cabinet and Overview and Scrutiny Protocol has been developed, to clarify relationships between the two and help ensure the smooth conduct of Scrutiny work, and encourage effective communication between the two. The protocol would not change the constitutional arrangements, nor roles or responsibilities for either.
- 5.2 The proposed protocol is set out at appendix 2. The Committee is requested to approve the protocol. If the Committee approves it the protocol will then be submitted to Cabinet for its approval as the protocol does impose requirements on both this committee and the Cabinet.

6. LEGAL/FINANCIAL AND OTHER CONTROLS/POLICY MATTERS

6.1 Legal Officer's Comments (AK)

It is important for Overview and Scrutiny Committee to establish and agree a work programme. This will enable the Overview and Scrutiny committee to fulfil its constitutional and legal function.

6.2 Finance Officer's Comments (RH/LW)

There will be no additional Special Responsibility Allowance to pay as the new Sub-Committee will be made from members of the existing OSC. Therefore the only potential additional costs will be for travel to attend the meetings and this can be contained from within the existing Members Allowances budget.

6.3 Diversities and Equalities Implications (GE)

There are no equalities implications directly arising from this report.

7. CONTACT OFFICERS AND BACKGROUND DOCUMENTS

Councillors with any questions arising out of this report should contact the following officer prior to the meeting

Jemma West – Committee Services Specialist
Telephone: 01303 853369
Email: Jemma.west@folkestone-hythe.gov.uk

The following background documents have been relied upon in the preparation of this report:

Centre for Public Scrutiny selection results

Appendices:

Appendix 1: Finance and Performance Sub-Committee Terms of Reference

Appendix 2: Cabinet and Overview and Scrutiny Committee protocol

Proposed Terms of Reference:
Finance and Performance Scrutiny Sub-Committee
of the Overview and Scrutiny Committee

Finance & Performance Scrutiny Sub-Committee Membership – 5

Quorum – 3

Chairman – appointed by Overview and Scrutiny Committee until the next annual meeting of the Council

Terms of Reference

1. To scrutinise the Council's performance against KPIs and make recommendations as appropriate, to the Cabinet and / or Overview and Scrutiny Committee, particularly considering:
 - the proposed performance targets for the coming year;
 - the in-year performance management data; and
 - the annual performance report.

2. To scrutinise the Council's financial monitoring data against budget and make recommendations as appropriate, to the Cabinet and / or Overview and Scrutiny Committee, particularly considering:
 - the annual Budget Strategy; and
 - the quarterly budget monitoring data for GF Revenue & Capital and HRA Rev & Capital.

Version 2

9 September 2020

Cabinet and Overview and Scrutiny Committee protocol

1. Introduction

- 1.1 The aim of the protocol is not intended to change the respective constitutional positions, roles or responsibilities of either the Cabinet or the Overview and Scrutiny Committee.
- 1.2 It is to clarify relationships between the two and help ensure the smooth conduct of Overview and Scrutiny business and encourage effective communication between the Overview and Scrutiny Committee and the Cabinet.
- 1.3 This Protocol applies to all Members of the Overview and Scrutiny Committee, any sub – committee, and any Member who may sit on a Scrutiny Task and Finish Group and all Members of the Executive (comprising the Leader and the other Cabinet Members).
- 1.4 The protocol provides guidance on the way in which Members fulfilling their different roles interact to enable Folkestone and Hythe District Council to carry out the Overview and Scrutiny function. The Protocol also outlines the framework and procedures underpinning the operation of Overview and Scrutiny and provides guidance on role of officers who support this process.
- 1.5 The key responsibilities of Overview and Scrutiny at the Council are set out in the Council's constitution, they are to hold the cabinet to account and for scrutinising Cabinet decisions before, or after, they have been implemented, to make recommendations on future policy options and for reviewing the general policy and service delivery of the Council

2. Objectives

- 2.1 To enable Overview and Scrutiny Members, Officers and Cabinet Members to fully understand their powers, roles and responsibilities in relation to the Overview and Scrutiny function, so as to maximise their personal effectiveness.
- 2.2 To establish a positive framework and the necessary procedures to enable the scrutiny function to work effectively.
- 2.3 To promote an ethos of mutual respect, trust and courtesy in the interrelationships between Overview and Scrutiny Members and Cabinet Members and to foster a climate of openness leading to constructive debate, with a view to ensuring service improvements.
- 2.4 To create a culture of holding the Executive to account on behalf of the electorate, by monitoring the effectiveness of the Council's policies and through the regular review of its performance in relation to service delivery.

- 2.5 To define and clarify the role of the Executive as an integral component of the scrutiny process.

3. Holding the Executive to Account

- 3.1 One of the underpinning principles of Overview and Scrutiny is the ability of non-Executive Members to hold the Executive to account. A key method of ensuring accountability is through critically and routinely considering the performance and decisions taken by the Executive.
- 3.2 To facilitate this approach, the Overview and Scrutiny Committee (or its sub-Committee) may challenge the Executive about decisions, which it has taken collectively, or Officer Key Decisions. The Overview and Scrutiny Committee/sub-Committee may also consider any relevant performance information in respect of the delivery of services. In addition, the Committee may query or make recommendations in relation to decisions which the Executive is proposing to take, as set out in the Forward Plan.
- 3.3 The Executive will be required to consider any recommendations or views expressed by the Overview and Scrutiny Committee/Sub-Committee and to take such action it sees fit. The Chairman or Vice-Chairman, or if unavailable, a representative of the Overview and Scrutiny Committee shall attend the Cabinet meeting to present the report and/or recommendations. Where any decision taken by the Executive is not in accordance with advice provided by the Committee, the relevant Cabinet Member, or if unavailable an Executive Member Colleague, shall attend the following meeting of the Committee to provide an explanation of the reasons for that decision to the Committee concerned.

4. Powers of the Overview and Scrutiny Committee

- 4.1 Paragraph 13.2, Part 7.2 of the Council's Constitution, sets out the relevant powers of the Overview and Scrutiny Committees, which include:-
- "Subject to resources being available within the agreed annual budget, the Overview and Scrutiny Committee may:
- a) Review and scrutinise decisions made and look at past performance;
 - b) Investigate options for future direction in Council policy;
 - c) Investigate and make reports and recommendations to the Council, or the Cabinet, on any matter which affects the authority's area, or the inhabitants of that area.

5. Overview and Scrutiny Committee Agendas

- 5.1 The agenda of each Overview and Scrutiny Committee meeting will include an item on the Committee's Work Plan to enable the Committee's priorities for scrutiny for the remainder of the Municipal Year to be included and prioritised.
- 5.2 The Cabinet may be invited to comment on the Committee's proposed priorities within the Work Plan to inform the selection process and to undertake a co-ordinating role by providing advice to the Committee about any potential conflict between proposed scrutiny topics and areas of planned policy development.

5.3 The Cabinet may also advise the Committee about instances where it may be requested by the Cabinet to assist in policy development. Members may at any time propose items for inclusion in the Committee's Work Plan.

5.4 The agendas of the Sub-Committee will include quarterly performance monitoring information at relevant times during the municipal year. The purpose of this item is to assist Members to monitor the recent performance of services within its remit against key targets and to make recommendations or to implement a more detailed scrutiny review in relation to those areas of identified weakness.

**6. Attendance by Cabinet Members at Overview and Scrutiny Committee
(including 'Call-In' meetings)**

6.1 Cabinet Members will normally be expected to attend meetings of the Overview and Scrutiny Committee, for the purposes of being held to account in relation to decisions taken and to answer questions in relation to proposed decisions.

6.2 Cabinet Members are encouraged to avail themselves of every opportunity to gauge the views of non-Executive Members on any issues falling within their remit. A close working relationship and an open exchange of views will be of particular importance to the Cabinet Member and Overview and Scrutiny Members, where consideration is being given to the development of the Council's budget or policy framework.

6.3 Cabinet Members will normally be expected to attend any meeting of the Overview and Scrutiny Committee at which it is intended to consider a Call-In request in relation to his/her area of responsibility.

6.4 At Call-In meetings, the purpose of the Cabinet Member's attendance is to answer questions of fact and not to present the item. Cabinet Members need to be careful not to be drawn into the debate, so as to avoid any possible allegations of becoming involved in the scrutiny of their own decisions. It is therefore important to draw the distinction between answering questions of fact and becoming involved in the Committee debate into the issue in question.

6.5 Unless there are extenuating circumstances, the relevant Cabinet Member should always attend a Call-In meeting. It is accepted however that Officers are often better placed to present greater detailed information that led up to the decision and this is deemed to be acceptable although it should always be the decision maker that is held to account.

6.6 The following procedure should take place at Call-In meetings:

- The Members who called in the decision should speak first.
- The Chairman would then invite the Cabinet Member (decision maker) to respond.
- The Committee can then ask questions of the decision maker who may ask a relevant officer to supply further information if necessary.
- The Committee debates the issue and votes on the outcome.

- 6.7 In the event of a situation where the relevant Cabinet Member cannot attend a Call-In meeting, the Leader of the Council or Deputy Leader should attend in their absence. In the event of both the Leader and Deputy Leader being unavailable, they should nominate another Cabinet Member to attend and be accountable for the decision.

7. Ethos of the Meeting

- 7.1 All Members should promote an atmosphere of openness at Overview and Scrutiny Committee meetings and should strive to ensure that questioning and debate takes place within a climate of mutual respect and trust between Overview and Scrutiny Committee Members, the Cabinet Member and other participants.
- 7.2 Overview and Scrutiny Committee Members should be prepared to ask searching questions of Cabinet Members, who in turn should be willing to respond to any question put. It should however be stated that Overview and Scrutiny Committee Members should be aware of and show an understanding of the fact that Cabinet Members may not be in a position to answer every question immediately or in detail.
- 7.3 Cabinet Members should, in so far as possible, anticipate and be prepared to answer questions on decisions taken, or proposed to be taken, which fall within their remit. Cabinet Members should also value the contribution of Overview and Scrutiny Committee Members who raise questions under these headings and respond in an appropriate and professional manner.
- 7.4 Cabinet Members should normally be authorised by the Committee to speak upon any item on the agenda which falls into their portfolio area of responsibility and may at any time offer to assist the Overview and Scrutiny Committee by the provision of factual information or advice in relation to the matters under discussion.
- 7.5 The Chairman of the meeting shall at all times ensure that the conduct of the meeting shall be fair and that all participants are treated courteously.
- 7.6 The Chairman, supported by the officers, should provide leadership and guidance to the Committee on all scrutiny matters and should promote the Committee's role to improve services and monitor the effectiveness of Council policies.

8. Supporting Overview and Scrutiny Reviews

- 8.1 These are reports with recommendation that have resulted from the work of the Committee, sub – committee or Task and Finish Group who will have spent time considering background information, witness evidence, and formulating their recommendations. In this and the immediately following paragraph "Chairman" refers to the chairman of the body carrying out the review.
- 8.2 The Chairman will be invited to present the final report at a Cabinet meeting.

The Cabinet can expect a report that:

- Has clear, concise recommendations;
 - Identifies potential areas for improvement; and
 - Highlights implications including financial, legal, equality, policy, of the recommendations and where possible identify solutions as appropriate.
- 8.3 The relevant Cabinet Member(s) can assist the review in a number of ways including:
- At the outset of the review, when consideration is given to the scope, methodology and witnesses to give evidence;
 - During the review when the Cabinet Member can be invited to give evidence;
 - At the end of the review after the first draft of the report has been produced.
- 8.4 During the review period the Chairman is recommended to meet with the Cabinet Member and Officers:
- To discuss the proposed scope, methodology and sources of evidence for the review and ascertain if the Cabinet Member has any suggestions to make;
 - To highlight and examine areas of potential agreement or disagreement in relation to the report's findings and recommendations to ascertain if any areas of disagreement can be resolved at the draft report stage, or identify if any further work needs.
- 8.5 Although this dialogue is encouraged, it is recognised that the Overview and Scrutiny function is independent of the Cabinet and as such agreement may not be possible on all the findings and conclusions in a draft report.
- 8.6 It is recognised that senior officers have a valuable role to play in the scrutiny process in terms of the provision of factual evidence for a review. At the commencement of an internal review, the Chairman will notify the relevant senior officer who will then contribute to the review in terms of supplying information and helping to identify suitable witnesses.
- 8.7 The relevant senior officer will be given the opportunity to comment and/or make recommendations on a completed draft report in terms of any factual errors. The decision as to whether to incorporate any suggested amendments will remain with the body whose report it is.
- 8.8 The responsibility for the implementation of scrutiny recommendations that have been approved by the Cabinet will rest with the relevant senior officer who will also be responsible for providing regular updates on progress to the Overview and Scrutiny Committee.
- 8.9 A completed scrutiny report, together with any comments provided by Officers will be forwarded to the Cabinet who will consider whether or not to implement the recommendations contained within the report.
- 8.10 If the content of a report, including any recommendations, is likely to impact on any external organisation, the Cabinet will have the opportunity to pass

comment, including whether or not it endorses the recommendations, before the report is passed to the external body.

9. Attendance by Officers at the Overview and Scrutiny Committee

- 9.1 Meetings of the Overview and Scrutiny Committee, and any Sub-Committee will be attended by the assigned Lead Officer and senior officer with responsibility for any agenda item under discussion. The role of the Lead Officer will be to assist the Committee through the provision of professional advice and to ensure access to relevant information and personnel.
- 9.2 The attendance of other relevant officers will be at the request of the Chairman, who will have regard to the appropriate level of seniority of attendees. In general the relevant officer should not be below third tier level. Attendance officers below third tier is at the discretion of the Head of Paid Service.
- 9.3 An officer in receipt of a request to attend a Committee meeting should make reasonable efforts to do so. Where an officer is unable to attend on a particular date he/she should notify the Chairman or Lead Officer as soon as possible, in order to agree the most appropriate course of action, which may include the attendance of an alternative representative.
- 9.4 Officers in attendance at Committee meetings should be prepared to assist the Cabinet Member in the provision of information to the Committee in response to any question raised.
- 9.5 Relevant Officers will normally be expected to attend any meeting of the Overview and Scrutiny Committee at which it is intended to consider a Call-In request in relation to his/her service area.