

Report to the Overview and Scrutiny Committee

Date of meeting: 21 July 2015



Subject: Select Committees – Terms of Reference 2015/16

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Recommendations/Decisions Required

- (1) That the Committee consider the views of the select committees in respect of their proposed terms of reference for the 2015/16 municipal year; and**
- (2) That the proposed terms of reference of each of the select committees for 2015/16 be agreed.**

Report

1. As the Committee will be aware, a new overview and scrutiny framework based on a structure of four 'select committees', has been introduced from the current municipal year. The select committee framework, which was developed by a task and finish panel during 2014/15, is intended to improve previous arrangements that resulted in a situation where not all service areas were subject to scrutiny (if required) or allocated to a particular member group for scrutiny purposes. The framework ensures that all services have a 'reporting' route for overview and scrutiny and that there is consistency and clear scope to the scrutiny activities of each committee.
2. The Council's procedure rules for the operation of the overview and scrutiny function are currently being reviewed as part of the ongoing review of the Constitution, a process which is not likely to be completed before March 2016. This exercise will include the bringing of the rules up to date to reflect the new select committee framework and it is intended that the overview and scrutiny rules will be considered by the Constitution Working Group in September 2015. In the meantime, the reference to the former scrutiny panels in the current wording of the Constitution now applies fully to the new select committees, as the Director of Governance has already been authorised to make all necessary amendments to the constitution for the implementation of the select committee framework, including the removal of provisions relating to the previous scrutiny panel structure.
3. The initial responsibility of the lead officers for each of the select committees has been the development of terms of reference and work programmes for each select committee. The terms of reference are intended to reflect the scope of each committee and provide for regular progress reporting on relevant matters to be made to the Overview and Scrutiny Committee. Proposed generic terms of reference have been drafted for all of the select committees on a corporate basis to ensure consistency, with the opportunity for additional terms specific to the work programme of each select committee to be added as necessary. The select committees are required (O&S Rule 12(4)(a)) to adhere to a work programme agreed by the Overview and Scrutiny Committee.

4. The terms of reference for the select committees are required to be considered at the first meeting of each committee during the year and must be agreed by the Overview and Scrutiny Committee. The draft terms of reference for each of the four select committees for 2015/16, as considered during the first cycle of meetings, are attached as Appendix 1 to this report for consideration at this meeting.

Housing Select Committee

5. A number of issues have arisen with regard to the operation of the Housing Select Committee, as a result of the Committee's recent consideration of its draft terms of reference. The Select Committee has requested that its concerns be considered by the Overview and Scrutiny Committee at this meeting.

Direct Reporting to the Executive

6. Paragraph 12(4)(h) of the current Overview and Scrutiny Rules provides that the select committees may, after consideration by the Overview and Scrutiny Committee, report directly to the Council, a Cabinet Committee, a Portfolio Holder or any other Council body, in connection with relevant matters. The generic terms of reference drafted for the new select committees (including the Housing Select Committee) require the committees to report Overview and Scrutiny Committee in accordance with the current procedure rules.
7. It appears that the former Housing Scrutiny Panel has for some time operated this particular rule on the basis that the Cabinet and/or the Housing Portfolio Holder have been able to ask the Panel to pre-scrutinise and recommend items direct to the Cabinet. This approach is contrary to the existing overview and scrutiny rules and was not applied by the other former scrutiny panels.
8. The Housing Select Committee is unhappy with the approach required by the Overview and Scrutiny Rules. The Committee has raised concerns that the Overview and Scrutiny Committee will not have time to deal with such issues as part of their meetings and, most importantly, that delays would occur in decision making if the procedure rules set out in the Constitution were applied. The Select Committee also considers that this approach is bureaucratic, as matters could potentially be considered by one group of members (the Select Committee), followed by another (the Overview and Scrutiny Committee), followed by another (the Cabinet or Housing Portfolio Holder). It should be noted however that the current procedure rules do allow direct reporting of the type favoured by the Select Committee, with the prior agreement of the Overview and Scrutiny Committee. This provision does not appear to require the Select Committee to first report to the Overview and Scrutiny Committee on the outcome of its work, so it may be that the delays anticipated are overstated.
9. It is understood that the Housing Portfolio Holder is particularly critical of the approach set out in the current procedure rules, as it has been useful in the past for the Portfolio Holder to be able to ask the former Housing Scrutiny Panel direct to consider issues and make recommendations to the Portfolio Holder and the Cabinet. The Select Committee therefore considers that the terms of reference for either all of the select committees (or just the Housing Select Committee) should allow:
 - (a) the Select Committee to be able to report and make recommendations directly to the Cabinet or relevant Portfolio Holder when appropriate, particularly where the Cabinet/Portfolio Holder had requested them to do so; and
 - (b) the Cabinet or a Portfolio Holder to be able to request (direct) a select committee to look at a particular issue and report/make recommendations to them (direct).
10. The task and finish panel that undertook the recent review of the overview and scrutiny framework recommended that focused and achievable work programmes be developed

for each select committee each year, drawing on Portfolio Holder and service delivery aims and objectives, and relevant community priorities. The Housing Select Committee has identified some examples of scrutiny activity on which it has reported directly to the Housing Portfolio Holder, including proposed changes to the Housing Allocations Scheme and recommendations on the use of the Housing Improvements and Service Enhancements Fund, but has not indicated whether these matters could have formed part of an agreed work programme instead.

11. It is not accepted that delays would occur in decision-making if the current overview and scrutiny procedure rules were applied to the activities of the Housing Select Committee. The work programme for each committee should be relevant and achievable and is similarly required to be considered by each select committee at the first meeting in the year, for subsequent agreement by the Overview and Scrutiny Committee. Additionally, the calendar of meetings for 2015/16 provides for meetings of each select committee in each cycle, to be held before the Overview and Scrutiny Committee. This approach is intended to allow for meaningful reports of the activities of each select committee to be made to the Overview and Scrutiny Committee at each meeting.
12. The select committees are required (O&S Rule 12 (4)(a)) to adhere to a work programme agreed by the Overview and Scrutiny Committee. All proposals for additional or urgent projects must be submitted in writing and presented at a convenient meeting of the Overview and Scrutiny Committee by the member or officer so proposing, in accordance with the established 'PICK' requirements. However, it does not appear that the PICK process has necessarily been followed in terms of the referral of scrutiny activity to the former Housing Scrutiny Panel by the Housing Portfolio Holder.
13. Although the Housing Select Committee has suggested that the ability to report and make recommendations directly to the Cabinet or relevant Portfolio Holder could be extended to all of the select committees, this concern has not been raised by any of the other the other committees. Furthermore, the approach proposed by the Housing Select Committee appears to be at odds with the Council's current arrangements (Constitution Article 7) for the establishment of advisory groups for the purpose of advising members of the Executive on executive functions. Any member of the Executive, whether acting on a personal basis under the terms of the scheme of delegation approved by the Cabinet or in any other connection, may establish an advisory group to assist in the carrying out of relevant functions. At the present time, there are three established Portfolio Holder Advisory Groups in existence, and it appears that the Housing Select Committee has assumed this role to some extent over recent years.
14. The Committee is requested to consider the views of the Housing Select Committee in respect of its proposed terms of reference. Clearly, any changes to the rules of operation of the select committees will require amendment to the overview and scrutiny rules within the constitution.

Working Groups

15. The Housing Select Committee has also identified that it would be helpful for the select committees to be able to establish small 'working groups' of members when necessary to consider specific issues. Although this approach was agreed by the task and finish panel that undertook the review of the overview and scrutiny framework, the Housing Select Committee has raised concerns that this ability is not explicitly referred to in the proposed terms of reference for the select committees.
16. There is nothing within the current overview and scrutiny rules to prevent a select committee from setting up a member group as suggested, provided that specific issues are within the remit of the select committee (i.e. not a function of the Executive, the

Overview and Scrutiny Committee or another select committee) and that any decisions are made by the select committee itself, including making recommendations to the Overview and Scrutiny Committee or the Executive (via the Overview and Scrutiny Committee). Members should be aware however that it may not be possible for officers to provide the usual level of support resources to any such working groups that may be established.

17. Although the Housing Select Committee has recommended that the terms of reference for each of the new select committees should include a specific provision to allow them to set up small groups to consider issues within the purview/remit of the select committee, it is considered that this issue would be best addressed through an addition to the overview and scrutiny rules as part of the ongoing review of the constitution.
18. The select committee framework continues to provide for relevant scrutiny activity to be undertaken by way of the creation of task and finish panels (as necessary). However, it should be noted the current overview and scrutiny rules provide that task and finish panels may only be established by the Overview and Scrutiny Committee itself.

Recommendations:

19. The Committee is requested to consider the views of the Housing Select Committee in respect of its proposed terms of reference for the 2015/16 municipal year and to agree the terms of reference of each of the select committees for 2015/16.
20. This report was considered by Management Board at its meeting on 8 July 2015. Management Board considers that each of the new select committees should be operated on a consistent basis in line with the Council's established procedure rules for overview and scrutiny, but recognises that the Overview and Scrutiny Committee may be prepared to authorise the Housing Select Committee to report direct to the Executive on relevant annual matters such as the Housing Allocations Scheme and the use of the Housing Improvements and Service Enhancements Fund

Resource Implications:

There are no resource requirements arising from the recommendations of this report.

Legal and Governance Implications:

The Council's constitution sets out rules for the operation of overview and scrutiny activity.

Safer, Cleaner, Greener Implications:

There are no implications arising from the recommendations of this report in respect of the Council's commitment to the Climate Local Agreement, the corporate Safer, Cleaner, Greener initiative, or any crime and disorder issues within the district.

Consultation Undertaken:

This report was considered by Management Board at its meeting on 8 July 2015.

Background Papers:

None

Impact Assessments:

Risk Management

The Council's constitution sets out rules for the operation of overview and scrutiny activity.

Equality:

There are no equality implications arising from the recommendations of this report.