



## Overview & Scrutiny Business Panel

### Overview & Scrutiny Business Panel: Scrutiny of the Council's COVID-19 Response

**Date:** 5<sup>th</sup> May 2020

**Key decision:** No

**Class:** Part 1

**Ward(s) affected:** All

**Contributors:** Chief Executive

### Outline and recommendations

The Overview & Scrutiny Business Panel is responsible for exercising call in of decisions and ensuring a coordinated programme of scrutiny.

On 30<sup>th</sup> April, the Council Urgency Committee agreed a programme of Council meetings in light of the Council's focus on responding to the immediate challenges of COVID-19. Given the critical and cross-cutting nature of the Council's response (focused on critical services, such as social care, housing and bereavement) the calendar of meetings allows for scrutiny of the response to be carried out by monthly meetings of the Overview & Scrutiny Business Panel.

This report outlines the approach of a standing COVID-19 agenda item and supporting processes to support effective scrutiny at this time. Members of the Overview & Scrutiny Business Panel are recommended to agree this approach.

The Overview & Scrutiny Business Panel is recommended to:

- Agree the approach outlined in section 5 of this report

### Timeline of engagement and decision-making

**20<sup>th</sup> April 2020:** All-member briefing

**30<sup>th</sup> April 2020:** Council Urgency Committee - agrees a calendar of meetings in light of the COVID-19 impact on the Council calendar and decision making processes.

## 1. Summary

- 1.1. The purpose of this report is to provide more detail about how scrutiny of the Council's COVID-19 response will work in practice, following agreement at Council Urgency

Committee that this should be delivered by monthly meetings of the Overview & Scrutiny Business Panel. The proposed approach includes the establishment of (and suggested content for) a standing COVID-19 agenda item and processes for members to request information or ask questions at meetings.

## 2. Recommendations

2.1. The Overview & Scrutiny Business Panel is recommended to:

- Agree the approach outlined in section 5 of this report

## 3. Policy Context

3.1. The recommendations of this report are consistent with all the Council's corporate priorities (as outlined in the Corporate Strategy 2018-22) as the need to protect the health and wellbeing of all our residents (particularly the most vulnerable) at the current time underpins the delivery of every commitment within the strategy. However, the recommendations are particularly relevant under the priority of:

- *Delivering and defending: health, social care and support* – ensuring everyone receives the health, mental health, social care and support services they need

3.2. In addition, the recommendations are consistent with the Coronavirus Act (2020) which sets out the temporary emergency measures that enable public bodies, such as local authorities, the NHS and police to respond to the COVID-19 outbreak. These measures are wide-ranging and involve the establishment of new powers and duties as well as changes to existing powers and duties.

## 4. Background

4.1. As agreed at Council Urgency Committee on 30<sup>th</sup> April 2020, the Overview & Scrutiny Business Panel (OSBP) will meet monthly to review any key decisions requested by members (and potentially exercise call-in). They will also undertake some proportionate pre-decision scrutiny and maintain oversight of the Council's COVID-19 response (until August 2020 in the first instance).

4.2. The Council's Constitution provides at Article 6.8.b that where a particular issue would fall within the remit of more than one Overview & Scrutiny Select Committee, the Overview & Scrutiny Business Panel may decide on the allocation to a Select Committee or reserve the matter to itself for consideration. Perhaps more than any other matter, the Council's response to COVID-19 cuts across the remit of Overview & Scrutiny Select Committees and it can therefore be scrutinised by the Overview & Scrutiny Business Panel.

4.3. The proposed approach for oversight of the Council's COVID-19 response (see section 5) is in line with guidance from the Centre for Public Scrutiny (CfPS). It is intended to strike a balance between allowing timely, transparent and well-scrutinised decisions to be made and ensuring that resources remain focused on delivering critical services at this challenging time. Members were briefed about the proposed approach on 20<sup>th</sup> April 2020.

## 5. Proposed approach

5.1. It is suggested that all formal scrutiny activity is channelled through the Overview & Scrutiny Business Panel at this time and that it receives a COVID-19 update (ordinarily presented by the Chief Executive or Council GOLD) as a standing item on each agenda. The purpose of this standing item will be to provide members (and any members of the public observing the meeting virtually) with a high-level strategic overview of and assurance about the Council's response to COVID-19.

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- 5.2. The anticipated content of the agenda item is outlined in section 5.3. In line with guidance from the CfPS, it is suggested that OSBP's approach and focus when addressing this item is:
- 'How can our intervention have a tangible, positive outcome right now?'
  - 'How can our support to the operational response be immediate?'
  - 'How can we shed light on decisions and, by doing so, make those decisions better?'

#### Item content

- 5.3. The COVID-19 item on each agenda should include:
- A summary of the overall regional/local system response to COVID-19
  - Any key developments since the last update
  - An overview and update on the Council response in relation to critical services
  - Scope for member input and community feedback to the operational response

#### Practical considerations

- 5.4. In order to ensure that scrutiny of the COVID-19 response by the Overview & Scrutiny Business Panel strikes a balance between allowing timely, transparent and well-scrutinised decisions to be made and ensuring that resources remain focused on delivering critical services at this challenging time, it is further suggested that the following protocol should apply:
- The information presented under this item will be primarily drawn from existing information and data considered by Council GOLD
  - Any member requests for additional specific information (in the context of enabling them to deliver their responsibilities as outlined above) should be provided to the Overview & Scrutiny Manager no later than 10 working days prior to the Business Panel meeting. Whilst information requested will be provided where possible/appropriate, it should be noted that monthly all-member briefings are also taking place, which may provide a more appropriate channel for general enquiries
  - The Select Committee Chairs sitting on the Overview & Scrutiny Business Panel consult their committee members on matters within the update report that relate to their committee's remit and, along with other Business Panel members if they wish, prepare questions to submit in advance to the Chair, copying in the Overview & Scrutiny Manager. The scrutiny team can support Select Committee chairs with consulting with their respective committee members if required.
  - The Chair, supported by the Overview & Scrutiny Manager, will collate the questions/comments and provide them to the Chief Executive/Council GOLD by 10am the day before the meeting
  - Submitting questions in advance of the meeting will not preclude Business Panel members from asking additional questions at the meeting, but will assist in its smooth running and ensure that (where possible) information is available at the meeting to respond to key questions
  - Any matters within the report relating to the provision of Education services will be discussed at an Overview & Scrutiny Education Business Panel (to be called on the rising of OSBP)

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## 6. Financial implications

6.1. There are no specific financial implications arising from this report.

## 7. Legal & equalities implications

7.1. The Council's Constitution provides at Article 6.8.b that where a particular issue would fall within the remit of more than one Overview & Scrutiny Select Committee, the Overview & Scrutiny Business Panel may decide on the allocation to a Select Committee or reserve the matter to itself for consideration. Perhaps more than any other matter, the Council's response to COVID-19 cuts across the remit of Overview & Scrutiny Select Committees and it can therefore be scrutinised by the Overview & Scrutiny Business Panel.

7.2. The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

7.3. In summary, the Council must, in the exercise of its functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- advance equality of opportunity between people who share a protected characteristic and those who do not
- foster good relations between people who share a protected characteristic and those who do not

7.4. It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed in the paragraph above.

7.5. The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for members, bearing in mind the issues of relevance and proportionality. They must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.

7.6. The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

7.7. The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

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[The essential guide to the public sector equality duty](#)

[Meeting the equality duty in policy and decision-making](#)

[Engagement and the equality duty: A guide for public authorities](#)

[Objectives and the equality duty. A guide for public authorities](#)

[Equality Information and the Equality Duty: A Guide for Public Authorities](#)

7.8. The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

## 8. Climate change and environmental implications

8.1. There are no specific climate change and environmental implications arising from this report.

## 9. Crime and disorder implications

9.1. There are no specific crime and disorder implications arising from this report.

## 10. Health and wellbeing implications

10.1. There are no specific health and wellbeing implications arising from this report.

## 11. Background papers

- [Council Urgency Committee \(30<sup>th</sup> April\)](#)

## 12. Glossary

Term	Definition
Council GOLD	A gold/silver/bronze command structure is a hierarchy used by the emergency services and other public sector organisations (including local authorities) to manage the response to major incidents. Gold command is responsible for formulating a strategy for dealing with the incident and has overall control of resources.
Council Urgency Committee	Comprising 6 Councillors, the Speaker, Deputy Mayor, Chair of Overview & Scrutiny, a Cabinet Member and 2 other Councillors. The Committee is empowered to deal between meetings of the Council with any matters which are urgent and cannot be delayed until the next scheduled meeting of the full Council.
COVID-19	Coronavirus disease (COVID-19) is an infectious disease caused by a newly discovered coronavirus. The two main symptoms of COVID-19 are a high temperature and a new, persistent cough, but people may also experience shortness

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Term	Definition
	of breath or flu-like symptoms.
Overview & Scrutiny	Overview and scrutiny is the way in which Mayor and Cabinet (the 'Executive'), officers and external organisations are held to account for the decisions that they make. It is led by councillors who are not members of the Executive. They also influence policy development and investigate issues of local concern, making recommendations for improvement.
Overview & Scrutiny Business Panel	<p>Lewisham has two Business Panels (sub-committees of the Overview and Scrutiny Committee).</p> <p>Overview &amp; Scrutiny Business Panel is made up of the chair and vice-chair of the Overview and Scrutiny Committee, the chair of each of the Select Committees, and two other non-Executive councillors.</p> <p>The main functions of Business Panel are reviewing key decisions once they have been taken (potentially "calling in" key decisions that have been made but not yet implemented); coordinating and approving the overall scrutiny work programme; and allocating scrutiny work in the event that it crosses the remit of more than one scrutiny body.</p> <p>Three parent governors and two diocesan representatives sit on the Education Business Panel, alongside the councillors that make up the regular Business Panel. The Education Business Panel reviews (and can call-in) key decisions that are education matters.</p>
Select Committee	Lewisham has six Select Committees (sub-committees of the Overview and Scrutiny Committee), each made up of ten non-Executive councillors and responsible for scrutinising a specific service area. Select Committees gather evidence to help them review policies and performance and make recommendations to improve outcomes for residents.

## 13. Report author and contact

- 13.1. If there are any queries about this report, please contact Salena Mulhere (SGM Inter-Agency, Service Development & Integration) by email ([salena.mulhere@lewisham.gov.uk](mailto:salena.mulhere@lewisham.gov.uk)) or telephone (020 8314 3380).

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