

WILTSHIRE COUNCIL

Standards Committee – 2 May 2012

Council – 15 May 2012

Review of the Council's Overview and Scrutiny Arrangements

Purpose of the Report

1. To provide an update on the review of the Council's Overview and Scrutiny (OS) arrangements in the light of experience since the beginning of the new unitary Wiltshire Council and the publication of the Council's Business Plan 2011-15.
2. To seek approval to implement new arrangements resulting from the review.

Background to the Review

3. The Local Government Act 2000, and more recently the Localism Act 2011, requires local authorities to include an overview and scrutiny function as part of its governance structure with a primary role to hold the executive to public account for its policies, decisions and actions. The current overview and scrutiny arrangements were agreed for "day one" of the unitary Wiltshire Council following an analysis of the arrangements in place in the former councils, government and national best practice.
4. An interim review was held in January 2010 at the request of councillors with the major change being the creation of an over-arching OS Liaison Board which took on the management of the function and the co-ordination of business on an informal basis. The current structure is shown in Appendix A.
5. The current review commenced at the end of July 2011 following consideration of a discussion paper by the OS Liaison Board with the intention of undertaking wide-ranging consultation.

Influencing Factors

6. Executive/Scrutiny Relationships

It is important to recognise that whatever structure and supporting processes are put in place it is only as good as the willingness to make them work. At the heart of this is the relationship between the Council's Executive and OS function, including the nature of the personal contact between leading

individuals of the two. This is particularly important when scrutiny activities are chaired by opposition members.

7. Work to date suggests that in reshaping OS arrangements for the future this relationship should reflect the following core values:

- Mature and harmonious working relationships to provide for open and constructive challenge in the style of a critical friend.
- OS should be an integral part of decision-making in order to minimise delays and frustrations.
- OS should add value to decision-making and focus on the big, important matters to the Council and communities identified in the Business Plan.
- A “two-way street” for communication to enable OS to develop a complementary work programme to that of the Executive.
- Responsible behaviour and sound practices with OS reviews based on evidence (not anecdote or political bias) fairness, respect and courtesy.
- All members and officers should work together to ensure the efficient transaction of OS business.

8. At an operational level more work is needed to ensure that officers leading the Council’s major projects engage with non-executive councillors through OS, and see the benefits of doing so.

9. Budget and Policy Framework

The Constitution requires any report from the Executive on proposals relating to the budget and policy framework to contain details of the consultation undertaken with stakeholders and the relevant OS committee. It is consistent with this provision for Council to expect scrutiny to have been given a reasonable opportunity to undertake this work prior to submission for formal adoption.

10. Business Plan and Corporate Programme

The Council’s Business Plan sets a clear direction over its priorities and how these will be delivered. In addition, a new corporate leadership model has been implemented with a number of cross-cutting themes forming the focus of its work.

11. OS Work Programme

This needs to be relevant, balanced, proportionate, timely and outcome-focused. This will only be achieved by all parts of the organisation investing in getting it right – demonstrating collective ownership and operational discipline. There is a strong view that the OS work programme needs to include a higher proportion of policy development work (overview) so that non-executive councillors can genuinely contribute and influence decision-making. This can only happen where there is a joint commitment from the Executive and OS to work together and the core values set out in paragraph 7 are demonstrated. Get this right and improved commitment and attendance is likely to be seen.

12. Future Legislation

The Government is in the process of legislating extensively on public services, including health and social care, crime and disorder, housing and localism, all of which refer to the important role of OS in providing a check and balance on decision-makers on behalf of the public and service users. Structures and resources will need to be flexible enough to respond effectively to this changing environment.

ELT Considerations and Recommendations

13. A working party was formed consisting of corporate and service directors. It met twice and reached the following conclusions:

- OS is a statutory function and a key component to good governance
- The function currently lacks a positive identity
- OS can suffer from poor behaviours
- OS should be evidence-based without political bias
- It is important to see OS as separate from political opposition and not controlled by the Executive (but also to recognise that these do form integral parts to effective decision-making)
- Policy development needs to feature more significantly in its work programme through invitation and support by the Executive much earlier in the process
- Further councillor development to improve knowledge and application

14. In particular, the Working Party felt that OS would be better placed focusing its efforts on cross-cutting topics and objectives i.e. the what's rather than the how's. This would show closer alignment with the priorities in the Business Plan and the focus of the new corporate leadership team. Its activities would

therefore shift to outcomes and add real value to supporting delivery of the Council's goals.

15. The Working Party favoured a single over-arching committee in order to concentrate non-executive councillor talent and manage and coordinate subordinate activities linked to cross-cutting themes and priorities. Overview task groups when supported by the Executive were seen as very effective and rewarding for non-executive councillors. However the current experience of an increasing reliance on rapid scrutiny exercises for what could be described as normal business had tended to support poor scrutiny practice.
16. The Working Party recognised that implementing improvements represented a major change programme and therefore agreed to stay in existence to offer high-level corporate support.
17. A summary of the outcome of these considerations were endorsed by the OS Liaison Board at its meeting on 22 November 2011.

Leading Member Input

18. At an informal meeting of leading members it was stated that their preferred approach was to have a single, over-arching committee with the power to exercise full management and control of the OS function, including responsibility and co-ordination of all activities and resources. This would be the body that engages directly with the Executive over an effective OS work programme linked to the Council's priorities in the Business Plan.
19. The over-arching committee should be free to apply the most appropriate form of engagement to the activity to ensure a focused and efficient approach. However, provision has to be made for health scrutiny and places allocated for parent and church governor representatives on the committee scrutinising education matters. The preferred approach was to create standing sub-committees for these two services although it was emphasised that the sub-committees would not necessarily meet on a regular cycle and their activities would remain to be determined by the management committee. Overview of the Council's policies, annual scrutiny of budget proposals and subsequent monitoring along with performance monitoring was felt to also need highlighting in some form.
20. Leading members also acknowledged that non-executive elected councillors and the Cabinet regularly comment that the best work is done through single topic, time-limited task groups – an experience confirmed nationally, and therefore this should feature prominently as the preferred approach for review

of other Business Plan priorities. Wherever possible the Executive should engage at an early stage with OS, preferably during policy development.

CLT/Cabinet Liaison

21. A progress report on the review was considered at CLT/Cabinet Liaison on 9 January.

Group Leaders'

22. The same progress report was considered by Group Leaders on 11 January. The Chairman and Vice-Chairman of the OS Liaison Board attended and explained the background to the review and rationale for the initial proposals recommended by the OS Liaison Board. No strong consensus was formed to enable a clear recommendation to be made to Council and therefore further work was requested.

23. This outcome was reported to the OS Liaison Board on 24 January. A wide-ranging discussion took place in an attempt to find an acceptable way forward. Officers were asked to draw up a structure with outline terms of reference for a preferred model based on a new over-arching management committee and retaining 3 of the existing select committees as sub-committees and a separate body for budget scrutiny.

24. On 30 January Group Leaders were updated on the developing proposals and agreed to brief their members on the position reached. Further meetings were then held between leading members to refine the detail of the structure.

25. The OS Liaison Board on 27 March made a final recommendation to Group Leaders. In supporting the recommendation for wider comment Group Leaders made the following observations:

- that there will be a need to develop some of the working practices under the revised structure including the role of the Management Committee in agenda setting and the power to direct the sub-committees and task groups;
- it was important that OS added value to the work of the Council and therefore it should be concentrating on fewer topics with more in-depth consideration of matters particularly where these had been agreed as priorities with Cabinet.

Constitutional Implications

26. As a consequence of the outcome of the above discussions a number of constitutional issues needed to be considered. The intention of the new structure now recommended in Appendix B is that the main committee should control and co-ordinate the OS function. It will do this by approving and aligning the work programmes of the sub committees and in turn the use of resources.
27. It will have an agenda setting role and will set the priorities of the scrutiny function. It will therefore no longer be necessary for the sub committees to meet on a fixed schedule of meetings but will meet as and when required by the work programme as set by the main committee.
28. The main committee will set the priorities after consultation with cabinet members and directors. This will ensure that the priorities will be informed by the work programme of the cabinet and the business plan of the council. The expectation is that OS will be more focused on policy development and where it can add value to the Council's work. Therefore it should be concentrating on fewer topics with more in-depth consideration of matters, particularly where these have been agreed as priorities with cabinet.
29. Based on this concept the core values in paragraph 7 should guide the working relationship that exists between OS and the executive and this will help inform the work right across the council.
30. These proposals should encourage member engagement in the scrutiny function and promote consistency in its operation.

Overview and Scrutiny Management Committee

31. The Council will appoint the main committee and its membership at its annual meeting and will by convention authorise the committee itself to appoint its chairman and vice-chairman. The proposed terms of reference of the main committee are as set out in Appendix B.

Appointment of Sub-Committees

32. The proposed structure envisages the appointment of 3 sub committees. Whilst formally the appointment of sub committees will be a matter for the committee itself, the council in approving the structure will set the framework within which these arrangements will operate. The proposed terms of reference for the sub committees are also set out at Appendix B.

33. It is assumed that the sub committees will be appointed on a politically proportional basis – unless all members of the management committee vote for an alternative model.

34. In order to give all members of the council the opportunity to become engaged with OS it is recommended that the council agrees that the committee should appoint members (and their substitutes) from the wider membership of the council rather than restricting the membership to those members of the main committee.

Sub-Committee Chairmen

35. It is proposed that the chairmen of the sub-committees should be members of the main committee. This will ensure clear accountability and effective communications between the committee and its sub-committees.

Task Groups

36. The power to appoint ad hoc task groups lies with the management committee as shown in Appendix B. Sub-committees may appoint task groups with the agreement of the management committee. However, the structure does envisage the appointment of one standing task group to review and scrutinise revenue and capital budgets. The committee will appoint a small team to comprise the task group from among its membership. The terms of reference for the Task Group are set out in Appendix B.

Constitution Focus Group Views

37. The Constitution Focus Group met on 19 April. All councillors had been invited to express views directly. Correspondence was received from a number of councillors but these related mainly to points of clarification. The Focus Group discussed the constitutional issues raised above and agreed with the proposed approach. In doing so it made the following points:

- Where a sub-committee appoints a chairman who is not a member of the main committee, the relevant group leader would be expected to amend their membership of the main committee to rectify this at the next available council meeting;
- These arrangements should provide greater consistency of approach across the function, delivering a single work programme based on the council's priorities, and encourage increased councillor engagement;
- The need for clear communications within the new structure to ensure focus and efficiency in delivery;

- Budget OS is to be undertaken by a standing task group to provide dedicated expertise from a leading small team although operating practices will need to be developed;
- The need to avoid this task group duplicating the work of the Audit Committee.

Next Steps

38. The Standards Committee will consider these proposals and make their recommendations on the revised arrangements to Council on 15 May. The Monitoring Officer will also need to be authorised to make any consequential amendments to the Articles and Overview and Scrutiny Procedure Rules in the Constitution.

Transition to New Arrangements

39. If Council agrees to adopt the new arrangements the current scrutiny select committees will cease to exist. It will be for the new management committee to determine the approach to any ongoing legacy business from the current arrangements.

Financial Implications

40. It is intended that the revised arrangements will be supported within existing resources. Any proposed changes may necessitate a review of allowances for OS members.

Conclusion

41. This paper is not an exhaustive list of all the issues or options/variations discussed during the review process. Everyone involved recognises that improvements are necessary and the proposals summarised in this report are as a consequence of comprehensive discussion. As mentioned previously, effective OS is not simply about structure and process, or indeed rights and wrongs, but more about the desire and culture of the organisation to operate openly. It is recognised that much more than a quick-fix structural change is needed.

42. As a statutory function and key component of the Council's goal of open and honest decision-making and of its governance framework, OS can, with the commitment of all concerned, be a more valuable and integral part of the organisation.

Recommendations

43. The Standards Committee is asked to recommend Council to approve the outcome of this review as set out in the report and in particular, to agree:

- (1) The core values set out in paragraph 7 above;
- (2) The structure and terms of reference of the revised overview and scrutiny arrangements set out Appendix B;
- (3) To authorise the Monitoring Officer to make any consequential constitutional amendments necessary to give effect to the revised arrangements;
- (4) To note the new Overview and Scrutiny Management Committee will be responsible for determining how ongoing legacy business from the current arrangements should be managed; and,
- (5) To note the intention to maintain the ELT working group to assist in implementing and developing these revised arrangements.

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