

WELWYN HATFIELD
OVERVIEW AND SCRUTINY COMMITTEE
REPORT OF THE EXECUTIVE DIRECTOR (FINANCE AND TRANSFORMATION)

Effectiveness of the Overview and Scrutiny Committee

1 Executive Summary

- 1.1 From the municipal year 2020/21, the committee structure was changed. As part of the work programme for the year, the Overview and Scrutiny Committee (OSC) requested that the effectiveness of OSC since this time be considered.
- 1.2 This report sets out some key information for the committee, to enable a robust discussion to take place on the Committees effectiveness, including:
- The statutory framework
 - The councils constitution and protocol
 - The approach to topic selection for scrutiny
 - The outcomes and approach to previous topics
 - Call-in of executive decisions
 - Pre-decision scrutiny
 - Available information
 - Task and Finish panels – Chairs feedback
 - Officer observations

2 Recommendation(s)

- 2.1 That the committee discuss the effectiveness of OSC and consider if they wish to make any recommendations to the Council on the OSC protocol contained within the constitution.

3 Explanation

The Statutory Framework

- 3.1 Overview and scrutiny committees were introduced in 2000 as part of new executive governance arrangements to ensure that members of a local authority who were not part of the executive could hold the executive to account for the decisions and actions that affect their communities.
- 3.2 The requirement for councils in England to establish overview and scrutiny committees is set out in sections 9F to 9FI of the Local Government Act 2000 as amended by the Localism Act 2011. The legislation has had updates since 2000.
- 3.3 [Guidance](#) has also been issued by the government, from which most of this section has been taken.

- 3.4 Overview and scrutiny committees have statutory powers to scrutinise decisions the executive is planning to take, those it plans to implement, and those that have already been taken/implemented.
- 3.5 Overview and scrutiny committees may make reports or recommendations to the Council about the discharge of their respective functions, and also on matters that affect the authority's area or the inhabitants of the area. Recommendations following scrutiny enable improvements to be made to policies and how they are implemented. Overview and scrutiny committees can also play a valuable role in developing policy.
- 3.6 District Councils are not required to designate a statutory scrutiny officer, this requirement is only on upper tier and single tier authorities.
- 3.7 By law, the Committee must be politically proportionate and may not include executive members.
- 3.8 A scrutiny committee needs access to relevant information the authority holds, and to receive it in good time, if it is to do its job effectively. This need is recognised in law, with members of scrutiny committees enjoying powers to access information. In particular, legislation gives enhanced powers to a scrutiny member to access exempt or confidential information. This is in addition to existing rights for members to have access to information to perform their duties, including common law rights to request information and rights to request information under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
- 3.9 Scrutiny members should have access to a regularly available source of key information about the management of the authority – particularly on performance, management and risk.
- 3.10 Scrutiny members should also consider the need to supplement any authority-held information they receive with information and intelligence that might be available from other sources and should note they may invite other persons to attend meetings of the committee and to access information from certain external organisations. External organisations are generally not legally obliged to attend, but the committee can put forward a case for attendance to the relevant individual at the external organisation for consideration.
- 3.11 Effective scrutiny should have a defined impact on the ground, with the committee making recommendations that will make a tangible difference to the work of the authority. To have this kind of impact, scrutiny committees need to plan their work programme, i.e. draw up a long-term agenda and consider making it flexible enough to accommodate any urgent, short-term issues that might arise during the year.
- 3.12 Scrutiny works best when it has a clear role and function. This provides focus and direction. While scrutiny has the power to look at anything which affects 'the area, or the area's inhabitants', authorities will often find it difficult to support a scrutiny function that carries out generalised oversight across the wide range of issues experienced by local people, particularly in the context of partnership working. Prioritisation is necessary, which means that there might be things that, despite being important, scrutiny will not be able to look at.
- 3.13 Applying this focus does not mean that certain subjects are 'off limits'. It is more about looking at topics and deciding whether their relative importance justifies the positive impact scrutiny's further involvement could bring.

- 3.14 When thinking about scrutiny's focus, members should be supported by key senior officers. Evidence will need to be gathered to inform the work programming process. This will ensure that it looks at the right topics, in the right way and at the right time. (the Executive, officers, partners, contractors, the public).
- 3.15 Scrutiny will need access to relevant information to inform its work programme. The type of information will depend on the specific role and function scrutiny plays within the authority, but might include:
- performance information from across the authority and its partners
 - finance and risk information from across the authority and its partners
 - corporate complaints information, and aggregated information from political groups about the subject matter of members' surgeries
 - business cases and options appraisals (and other planning information) for forthcoming major decisions. This information will be of particular use for pre-decision scrutiny
 - reports and recommendations issued by relevant ombudsmen, especially the Local Government and Social Care Ombudsman

The Councils Constitution and Protocol

- 3.16 The councils constitution sets out the terms of reference and rules governing the Overview and Scrutiny committee.
- 3.17 This includes:
- The [Committees responsibilities](#) (page 4)
 - [The Overview and Scrutiny Committee Procedure Rules](#) (the protocol)
- 3.18 In addition, other elements of the constitution also apply to the Committee although are not specific to the Committee, for example the Rules of General Application to all Committees and Petitions.
- 3.19
- 3.20 These are all kept under regular review, and the Councils Constitution Review group will consider and recommend changes to Council.
- 3.21 Changes to the procedure rules in recent reviews include:
- Full review and implementation on review of Councils committees (2020)
 - The addition of crime and disorder scrutiny into the objectives for the committee (2023)
 - Updates to the procedure rules to better reflect practices, and provide additional clarity on matters (for example information was added on what options are available to the committee when a decision is called in) (2023)
 - Addition of responsibility for scrutiny of annual Ombudsman complaint reports (2023)
 - Amendment to procedure for appointing task and finish panel chair (2024 – subject to full council approval September 2024)

3.22 The councils protocol does not set procedures for multi-year scrutiny. There are a number of reasons for this:

- With the council operating elections in thirds, there can often be a change in membership of task and finish panels between years.
- Where there is a change in membership, it can change the focus of the task and finish panel and lead to delays in returning matters to OSC.
- Even where there is not a change in membership, topics crossing years has historically led to delays in the matter being presented back to OSC. It has also delayed the committees ability to advance a work programme for the year (this is demonstrated in 2020 where a large proportion of the committees work in the first part of the year, was finalising off panels which had commenced the previous year).
- The council also operates cabinet panels, and cross-party working groups, such as the Customer Services Member Group, which enable focussed cross-party involvement in longer running matters.

The approach to topic selection for scrutiny

3.23 The protocol for the committee was updated in 2020, when the review of committees took place.

3.24 At the first meeting of OSC in 2020/21, the committee considered the approach to scoring of potential scrutiny topics, and the terms of reference templates to be used for any task and finish panels.

3.25 In 2023/24, the committee agreed to a change to the scoring template, to remove duplication and enhance the clarity of evaluation.

3.26 Each topic is scored on 7 factors, and each factor is scored between 1 and 3 (low to high impact). The total score is then used to help prioritise the workplan, and to determine the approach taken (ie information sharing, full report, task and finish panel). The 7 factors scored are:

- Public interest
- Risk to Council or service delivery
- Alignment to corporate priorities
- Financial value
- Concern to partners
- Ability to have meaningful impact
- Breadth of impacts (benefit to community, partners, stakeholders etc)

3.27 Since the templates were introduced, there have been changes in the way in which these were completed. Initially, members were asked to complete the templates and undertake scoring in the meeting. This was challenging to achieve in a reasonable timeframe for the meeting, and often items had to be taken away outside of the meeting.

3.28 Workshops have been used since 2021 to facilitate drafting a workplan for the committee. Digital scoring was trialled, but again this could not be done in a timely fashion, leading to delays in bringing items back to scrutiny. There were delays to prior years workshops (pre-2022), and amendments were proposed by officer to assist in the process.

3.29 For the last two years, the workshop has been held well in advance of the committees

first meeting of the municipal year. To ensure this workshop is focussed on consideration of topics, officers have noted discussions and drafted the scoring and terms of reference based on the discussions held. These have then been discussed and agreed with the OSC chair before being presented to OSC. This approach has enabled the topics, workplan, and terms of reference for each task and finish panel to be presented and agreed (subject to any amendments at the meeting) at the first meeting of the municipal year, and for task and finish panels to be set up shortly afterwards.

3.30 Since 2022, the workshop started with a presentation from officers to outline:

- The roles and responsibilities of the committee
- The scoring methodology
- Sources of information members should be aware of
- A presentation for each directorate to outline key upcoming projects, legislative changes etc.
- Possible topics the committee may wish to consider (for examples topics which have received attention at Council)

3.31 This year, to improve transparency, a note was also produced to capture the discussions at high level and included in the pack for the committee as part of the topic scoring and workplan approval.

The outcomes and approach to previous topics

3.32 A review of all topics on the work programme has taken place, and information gathered for each, including:

- The topic
- The year of scrutiny
- The approach (single meeting/report or task and finish panel)
- The objectives
- The data used
- The people attending
- The recommendations made
- An action status update for the recommendations

3.33 This data is included as appendix A to the report for the committees consideration.

3.34 In addition to these topics, it was identified through the minutes that a number of other topics were discussed at meetings under the Any Other Business or Work Programme sections of the meetings. These discussions, whilst not leading to further scrutiny sessions, has led to additional information being shared with the committee, in order to produce background and context to matters to determine if further scrutiny is required.

3.35 Some examples of these include: an additional report being brought to the committee in 2020/21 on homelessness in relation to the Governments 'all in' policy; information being circulated on an upcoming Cabinet decision in 2020/21; a member information hub note being produced to provide information on affordable housing in 2021/22; information being provided on an upcoming Cabinet decisions in 2021/22; the provision of staffing data in 2021/22; and, consultations being added to the remit of the Customer Services cross-party working group in 2022/23..

Call-in of Executive decisions

3.36 Since 2020, there has been one call in of an Executive Decision. This is also included in appendix A (the heading is shaded yellow for the call-in item).

Pre-decision scrutiny

3.37 Since 2020, the Committee has undertaken pre-decision scrutiny every year on in relation to the budget, through the use of a standing task and finish panel. As outlined in 3.35 above, information has also been requested to be circulated to the committee prior to decisions being taken and no further scrutiny was requested following the provision of this information.

3.38 No other pre-decision scrutiny has taken place. However, it is important to note that the committee has always aimed not to overlap with the work of other committees where there is cross-party involvement prior to decisions being made.

3.39 In most instances, key policies, strategies and decisions will first have been through a cross party group, or a Cabinet panel (also cross party) prior to the Executive decision being taken. This offers an opportunity for all groups to have input into key decisions and policy, before decisions are taken.

3.40 This approach does mean that there is a reduced need for pre-decision scrutiny, so there is sound rationale for why there has only been pre-decision scrutiny on the budget.

3.41 It is worth highlighting in recent times, the committee has scrutinised the effectiveness of groups (Cabinet Housing Panel, Housing Maintenance Cross Party Group, and now OSC in this report) to ensure they are operating as expected.

Available information

3.42 Members of OSC can, should they wish, raise an item for discussion or scrutiny from information they have access to. As an example, if a contractors performance was considered to be failing, the contractor could be invited by OSC to present reasons for failures and an action plan for remediation.

3.43 As part of the workshop members of OSC attend before the first meeting each year, an overview of the information already available to members is provided. This sets out where members can obtain information which may be useful in their roles on the committee. These include:

- Key performance indicators (services, contracts etc) – published on the member information hub, and included in Cabinet agenda packs
- Risk Register – published in the Audit Committee agenda pack and Cabinet agenda pack
- Key service updates – published on the member information hub and weekly member newsletter
- Other committee reports (policies, strategies, performance data, service updates)
- Internal audit plan (to aid understanding of what controls are under review) – Audit committee agenda pack
- Media / Press

3.44 No areas have been identified in the minutes where such information has been used

during the year to request further information or additional scrutiny.

Task and finish panels – Chairs feedback

3.45 Chairs of task and finish panels since 2020, who are still Councillors, were contacted to obtain their views on the effectiveness of the panel. The questions asked were:

- Do you feel the panel had access to the data it needed/requested? (for example this might be key performance indicators, service usage levels etc)
- Do you feel the panel had access to the people it needed? (for example this could include officers, contractors, strategic partners and external bodies)?
- Were the objectives for the task and finish panel clear, and do you feel the panel achieved the objectives set?
- Do you feel that the Task and Finish group that you were involved with concluded in a timely manner?
- Are there any other comments or suggestions you would like to be considered?

3.46 Five Councillors were contacted (in relation to six panels), and three responses were received (in relation to four panels):

- In all four panels responses were received for, chairs felt the panels had access to the data the panel needed/requested.
- In three of the panels responses were received for, chairs felt the panels had access to the people it needed. One noted that officers were especially helpful. In the last panel, the chair flagged that they had not has access to residents with systemic complaints, and felt panels should have access to residents.
- In all four panels responses were received for, chairs felt the objectives for the task and finish panels were clear, and achieved what was set.
- In all four panels responses were received for, chairs felt the panels the Task and Finish groups concluded in a timely manner.
- In relation to other comments, one councillor mentioned that it would be useful for the panel to meet in 6 months to determine if their recommendations had been met (a function that has since been added into the role of OSC with an action status report having been presented at July OSC) and the other mentioned that those sitting on the budget task and finish panel should be conversant with local authority accounting. Another comment received that it would be good to understand how our OSC function compares to other councils who may operate differently.

Officer observations

3.47 In compiling the data and information for this report, officers identified a number of areas that the committee may wish to consider in its debate:

- Annual topics (crime and disorder and health) have not received any recommendations from OSC. When setting the work programme for the year, there has not been objectives set for these topics. Whilst the committee must scrutinise these topics, there is flexibility on how this is approached (for example the crime and disorder scrutiny this year could have focussed on Youth Violence rather than having a task and finish panel, with clear objectives being set on what is to be achieved).
- The committee has agreed to an action status report being presented each year. This is not currently in the protocol for the Committee and could be added via the Constitution Review Group.
- Topics highlighted by officers as key matters have not been selected by the committee. Some of these topics had been raised at other committees, including Full Council for referral to OSC, or recommendations from the previous years OSC. The committee may wish to consider if it should reserve time on the workplan to consider such matters (eg through the presentation of a report and information on the topic, to enable further discussion to take place as to whether more detailed scrutiny is required).
- There have been no minuted discussions on areas such as performance data. The committee may wish to have the performance and risk data presented with the forward work plan, to help inform if any other information or scrutiny would be appropriate. If this were requested by the committee, it should be noted it would be presented not for scrutiny, but for consideration of the workplan, so that the relevant parties could be asked to attend future meetings.
- Based on councillor feedback, the committee may wish to consider whether the protocol and procedures adequately reflect the rights and processes for the committee to access residents and/or community representatives (for example the tenants panel), and whether any further work should be done to compare how the council operates OSC to other councils. Members may also wish to consider whether any additional training should be required prior to attendance of the budget task and finish panel.

Implications

4 Security & Terrorism Implications

- 4.1 There are no direct security or terrorism implications arising from this report.

5 Legal Implications

- 5.1 The requirement for councils in England to establish overview and scrutiny committees is set out in sections 9F to 9FI of the Local Government Act 2000 as amended by the Localism Act 2011.
- 5.2 Should changes be recommended by the Committee, these may require updates to the constitution and would therefore be sent onto Full Council for consideration.

6 Financial Implications

- 6.1 There are no direct financial implications arising from this report..

7 Procurement Implications

- 7.1 There are no direct procurement implications arising from this report.

8 Climate Change Implications

8.1 There are no direct climate change implications arising from this report.

9 Health and Wellbeing Implications

9.1 There are no direct health and wellbeing implications arising from this report.

10 Link to Corporate Priorities

10.1 The subject of this report directly linked to the effective delivery of all of the Council's objectives.

11 Human Resources Implications

11.1 There are no direct human resources implications arising from this report.

12 Communications and Engagement

12.1 There are no direct communication and engagement implications arising from this report.

13 Equality and Diversity

13.1 An Equality Impact Assessment (EIA) has not been carried out in connection with the proposals as the report is provided for information only and does not propose changes to existing strategies, policies or services.

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