

Meeting: **Overview & Scrutiny Organisation Committee**
Policy & Resources Committee

Date: **19 July 2004**
23 June 2004

Report of: **Director of Cultural Services**

Subject: **Overview & Scrutiny Arrangements**

1. Purpose of the Report

1.1 To review the role and structure of Overview and Scrutiny in Brighton & Hove City Council in the context of:-

- an executive committee system
- ongoing financial pressures
- the strengths and weaknesses of the current arrangements

2. Recommendations

2.1 That officer support for Overview and Scrutiny be increased as set out at paragraph 3.7 of this report.

2.2 That the Director of Cultural Services be delegated responsibility to put in place the following arrangements:-

2.3.1 a process to monitor and follow up the outputs of Overview and Scrutiny and to ensure agreed recommendations are implemented

2.3.2 a communications programme to clearly identify what items are being or due to be reviewed and the outcomes

2.3.3 co-ordination by a senior officer of executive committees and Directors to identify potential areas of review to feed into the planning of the Overview and Scrutiny work programme.

2.3 That the protocol for Scrutiny Review Panels as detailed in Appendix A to the report be adopted.

3. Background

3.1 The legal requirements

The council is required (by the Local Government Act 2000) to have scrutiny arrangements in place as part of our committee structure. The minimum requirements are:-

- One or more O&S committee with the power to:-
 - (a) review or scrutinise decisions or actions in connection with the discharge of any of the authority's functions;
 - (b) make reports or recommendations to the council, any committee, sub-committee or joint committee of the council on matters which affect the authority's area or its inhabitants;
 - (c) call-in a decision made but not implemented and recommend that the decision is reconsidered by the committee or referred to full council;
 - (d) require members and officers to attend and answer questions
 - (e) enable members of an overview and scrutiny committee or sub-committee to place any matter relevant to the functions of the committee on the agenda
- Four voting co-optees (Church and Parent Governor representatives) in relation to education matters
- To comply with political proportionality and access to meetings rules

Holding the decision-makers to account is a legislative requirement of overview and scrutiny committees. The logic and motivation for holding decision makers to account is less clear for authorities like Brighton & Hove which have developed a streamlined committee system, involving the majority of members in meetings which are open to the public. To reflect that position, this paper proposes an increased emphasis on in depth reviews, external scrutiny and performance improvement roles.

3.2 Environment/context for Overview & Scrutiny in Brighton and Hove

There are some factors in Brighton & Hove, which will inevitably influence the role that scrutiny, can and should play. They are:-

- The executive committee system – scrutiny was designed as a “check and balance” to the cabinet system. In Brighton & Hove, we do not operate a “closed cabinet” model – decisions are taken by cross party committees in open session with the involvement of a large number of elected councillors.
- A reduced number of councillors – following the Boundary Review and May 2003 elections.

- The position of “no overall control” - involving members in additional formal and informal meetings.
- The council’s financial position and the clear need to prioritise resources and obtain value for money from all of our functions.

Any proposals for a change to the current arrangements need to recognise these factors and be realistic with focused objectives.

3.3 The need for review

It is now four years since scrutiny arrangements were introduced in Brighton & Hove. The initial arrangements supported the shadow Leader and Cabinet Structure and the scrutiny function fulfilled a role of information sharing and holding the executive decision makers to account.

The introduction of executive committees, local elections and management changes have all had an impact on scrutiny arrangements in the organisation since its inception. There have been some successes - including in depth reviews of areas of public concern, which have produced clear recommendations that have been implemented. There are also some challenges, such as focusing and prioritising the work programme and following up the implementation of recommendations.

It is inevitable and appropriate that, as the organisation changes, the O&S function will need to change with it. Increasing financial pressures and additional calls on the time of O&S officers and members to support new areas, such as health, mean that it is timely to review the current arrangements.

3.4 Experiences in other authorities

Overview and scrutiny is not heavily regulated other than the few legal requirements set out above. Councils are therefore free to shape the scrutiny roles and structure to focus on those elements that they feel will be of most value - each council is looking to make their own system work for them.

A wide variety of roles have evolved around the country – ranging from focusing on call-in and scrutiny of decisions taken to proactively shaping the formulation of key plans and policies.

Equally, authorities have adopted diverse approaches to the numbers of committees and their membership (from 13 committees involving all 60 members, to one committee involving 7 members).

3.5 Role/Functions

Although there may be no universal lessons across the UK, councils with “alternative arrangements” have had success with their scrutiny functions in certain areas. The proposal is to draw on their experience and shape it to fit our needs in Brighton & Hove.

With this aim, it is recommended that the following areas are adopted and taken forward as the overview and scrutiny roles in the City:-

(i) City-wide issues

O&S can choose to develop a strong outward focus, encouraging participation from partners and the public. Local authorities have the power to scrutinise the work and impact of external agencies such as other public, voluntary and private sector organisations.

Examples of “external” scrutiny undertaken in other authorities include ‘Improving bus services’ and ‘Health Services provided to children under 8 with special needs’.

Recent issues “external” to Brighton & Hove Council that could be considered as appropriate for scrutiny include:-

- Tackling graffiti on land and property owned by the utilities and other private companies

A strong element of external scrutiny reflects the Council’s role as a community leader and creates the potential for members to work across party political lines, focusing on the external issues. It also widens the range of issues available for scrutiny, allowing the really important issues for the City, whether council related or not, to be the focus of scrutiny. It is one way of engaging more people from the City in the process. It is also a way of ensuring that scrutiny “adds value” to, and does not duplicate, the work of the committees.

(ii) The Performance Improvement Agenda

In order to enable OSOC to take a more proactive role in the performance management agenda, a “front end” approach is proposed, with OSOC receiving context setting reports and/or presentations and/or holding site visits at the scoping stage to raise awareness and understanding. The aim is to ensure that when members receive performance improvement and external audit and inspection reports they will be in a more informed position in which to monitor and scrutinise the information.

(iii) In depth reviews to support executive committees

In depth reviews can involve a range of investigative methods, producing targeted reports with recommendations which are then taken on board by decision-makers.

Some examples of in depth reviews which the Council has undertaken in the past include the reviews of:-

- School admissions procedures

- The Grants Allocations process
- Personnel procedures for school mergers
- Sickness absence policy

In depth reviews are not work that can be undertaken in committee and yet can produce recommendations which lead to change and improvements in future decisions. It is a further way to make overview and scrutiny “add value” in a committee system. This work needs support from Directors and Executive Committees to help identify areas for review and collaborate with those reviews.

(iv) Holding executive committees to account

This role involves scrutinising executive committee decisions at a number of different stages in the decision making process: before they are made; before they are implemented and after implementation. This is the “scrutiny” side of O&S and can include:-

- Examining executive committee minutes and agendas
- Using call-in procedures
- Attending the executive committee meetings
- Calling the committee members as a witness
- Meetings with committee members
- Officer briefings

3.6 Structures

The proposal is to keep the structural and constitutional changes to a minimum and to keep OSOC in place to lead on the overview and scrutiny work, setting up panels where appropriate to carry out in depth and city wide reviews.

OSOC needs increased officer support to assist with this work as well as clear communication with the executive committees to identify those areas that are most in need of review.

To support OSOC, two standing sub-committees currently specialise in education and health issues (EOSP and HOSP). The sub-committees were set up to deal with specific statutory requirements and guidance in these areas (a number of co-optees required for education and a new role for the council in relation to the scrutiny of health services).

As the Children’s Trust develops, it may be appropriate to focus on children’s health, education and social services together and therefore change the constitutional arrangements for OSOC and the sub-committees. This would help address the recommendations in recent Ofsted and SSI reports that the Council’s scrutiny function

should ensure that it considers all key national and local issues affecting children. A separate piece of work looking at these issues will be part of the next constitutional review, which will be taken to Council in the autumn.

3.7 Proposals

To improve the efficiency, outcomes and credibility of the function, the following recommendations are being made:-

3.7.1 Staffing Levels

Currently there is one officer available for scrutiny work and it is proposed that an additional Scrutiny Support Officer be recruited to Democratic Services. The reshaping of the section at the end of the last municipal year together with vacancy management has given some flexibility to the budget over and above the savings requirement for 04/05. This will be used to recruit a second Scrutiny Support Officer.

This person would also need to be available to support the Health Scrutiny function, although it is recognised that more developmental work is required in this area and those aspects of Health Scrutiny which relate to Children are likely to be subsumed under arrangements relating to the Children's Trust (see paragraph 3.6).

There will also be an increased level of support to OSOC and future Review Panels in numerical terms with the involvement of the Head of Democratic Services and further support from the policy and legal teams at the scoping stage of the reviews.

3.7.2 Work programme

Careful planning and scoping to ensure that proposed in-depth reviews match the resources available to ensure that the system can cope. OSOC currently has an unwritten understanding of 4 in-depth reviews per year and it is proposed that this is a realistic target to ensure that the reviews are completed within a reasonable time-scale.

This needs the input of executive committees and Directors to help identify areas of most value, co-ordinated by the Head of Democratic Services to allow OSOC to determine their agenda for a rolling 12-month period.

3.7.3 Communication

A page on the web-site, the wave and/or City News which lists the reviews coming up, those completed and outcomes.

3.7.4 Review officer support to OSOC, EOSP, HOSP and Scrutiny Reviews

The Head of Democratic Services will take a direct role in overseeing all aspects of scrutiny.

There will be broader organisational support for scrutiny with the development of project management, legal, policy and research skills. These will be developed with support from the Director of Strategy & Governance and the Director of Finance & Property.

There will be clearer recognition within the authority at Member and officer level of the role of scrutiny. Directorates will need to identify link officers and/or "Overview & Scrutiny Champions" who would also help direct appropriate resources to specific

reviews.

Outputs, monitoring progress and developing success criteria.

Ensure follow through of the work that is done by putting processes in place to monitor the outputs and what is implemented.

COMMITTEE REPORT APPENDIX

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|-----------------------|---|
| Meeting/Date | Policy & Resources Committee 23 June 2004 |
| Report of | Director of Cultural Services |
| Subject | Overview and Scrutiny arrangements |
| Wards affected | All |

Financial implications

Finance Officer consulted: Catherine Vaughan

Legal implications

The legal requirements for scrutiny under alternative arrangements are set out at paragraph 3.1 of the report. Subject to these minimum requirements, each Council has the flexibility to shape the scrutiny function to make it fit their needs.

The proposals in this report relate to the resourcing and focus of scrutiny and do not require changes to the Constitution.

Lawyer consulted: Liz Culbert

Corporate/Citywide implications

The ongoing development of the role of Overview & Scrutiny and Scrutiny Review Panels will enable the corporate wide objectives to be effectively monitored and ensure that the decision-making process adheres to those objectives.

Risk assessment

Not applicable.

Sustainability implications

There are none.

Equalities implications

There are none.

Implications for the prevention of crime and disorder

There are none.

Background papers

Local Government Act 2000
Constitution of the Council

Contact Officers:

Tony Miller, Director of Cultural Services, Tel. 1031
Mark Wall, Head of Democratic Services, Tel. 1006

Protocol for Scrutiny Review Panels

Where a Scrutiny Panel conducts a review, it may ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:

(a) the investigation should be conducted fairly and all Members of the Panel be given the opportunity to ask questions of attendees, and to contribute and speak;

(b) as far as possible the process should be a positive experience for all concerned. Questioning should not be adversarial and those assisting the Panel by giving evidence should be treated with respect and courtesy;

(c) witnesses may be provided with a briefing note on the format and conduct of the meeting;

(d) the investigation should be conducted so as to maximise the efficiency of the investigation or analysis. This may include providing outline questions and details of any documents required to witnesses in advance.

(e) notwithstanding the provisions of the Access to Information Rules, witnesses may if they wish give their evidence privately or in writing.

(f) at the end of questioning witnesses should be invited to revisit any points raised or make any general comments. They should also be provided with a copy of any report to which their evidence has contributed.

Members and officers giving account

Having established the remit of a Scrutiny Review Panel, as well as reviewing relevant documentation, the panel may require any Member and/or any Director or their nominee to attend before it to explain in relation to matters within their responsibility:

(a) any particular decision or series of decisions;

(b) the extent to which the actions taken implement Council policy; and/or

(c) their performance;

and it is the duty of those persons to attend if so required (see below).

The requirement to attend shall apply only to a Member or to a senior officer to whom powers are specifically delegated in the Council's Scheme of Delegation to Officers at part 3 of the Council's constitution.

Any Member or officer who is required to attend before a Scrutiny Panel shall be given reasonable notice of the date of their attendance. Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Scrutiny Panel shall after consultation with the Member or officer arrange an alternative date for attendance.

Where an officer appears before a Scrutiny Panel to answer questions, their evidence should as far as possible be confined to questions of fact and explanation relating to policies and decisions. Officers may explain what the policies are, the justification and objectives of those policies as the decision makers see them, the extent to which those objectives may have been met, and how administrative factors may have affected both the choice of policy measures and the manner of their implementation. Officers may be asked to explain and justify advice they have given to Members prior to decisions being taken.

As far as possible officers should avoid being drawn into discussion of the merits of alternative policies where this is politically contentious. Any comment by officers on the Council's policies and decision-makers' actions should always be consistent with the requirement for officers to be politically impartial.

Attendance by others

A Scrutiny Panel may invite people other than Members or officers of the Authority to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and representatives from other parts of the public sector. Attendance by such persons is entirely optional.

Public involvement/transparency of the process

Scrutiny Panels will meet in public in accordance with the Access to Information Rules in Part 4 of this constitution. They will seek to foster consultation and involvement by local communities and where appropriate will consider when beginning a review how best the public and stakeholders can be invited to contribute - for example as service users, witnesses, expert advisers, local community representatives or co-opted members.