

Brighton & Hove City Council

For general release

Meeting: Overview and Scrutiny Organisation Committee

Date: 17 January 2005

Report of: Director of Strategy & Governance

Subject: Scrutiny Reviews – Working Protocol

Ward(s) affected: All

1. Purpose of the Report

1.1 To seek the Committees approval to a draft protocol/ ways of working for Scrutiny Panels.

2. Recommendations

2.1 That Members note that following the transfer of the Overview and Scrutiny function to Legal Services and the Members Seminar on 14th December, proposals for improving the scrutiny arrangements will be submitted to a future meeting of the committee.

2.2 That, in the interim, Members approve the draft “ways of working” paper attached in Appendix 2.

3. Background Information

3.1 At the meeting on 13th September Members considered a report from the Director of Cultural Services together with a draft protocol. Members agreed to amend the protocol by adding a requirement that any Member who requested a Scrutiny on a matter should not serve on any ad-hoc panels set up to consider the issue. Officers were instructed to make the amendment and submit the revised protocol for final approval.

3.2 A copy of extracts from proceedings of the Committee is attached under Appendix 2 and the amended draft protocol is attached at Appendix 3. The requirement regarding membership is included at the end.

3.3 As Members are aware, the management of the scrutiny function was transferred to Legal Services with effect from the new year. There was also a useful Members’ Seminar on 14th December which came up with a number of action points. It is intended to progress these in

consultation with the Chair and Vice Chair before reporting to the OSOC. The approval of the protocol is therefore without prejudice to other changes that may be implemented. The draft Protocol will therefore be essentially a provisional or holding position.



Brighton & Hove

Appendix 1

Meeting/Date	17 January 2005
Report of	Head of Law
Subject	Ways of working for Scrutiny Review Panels
Wards affected	All

Financial implications

There are no direct financial implications arising from this report.

Legal implications

There are no direct legal implications arising from this report.

Corporate/Citywide implications

This will contribute positively to increasing confidence in the scrutiny process.

Risk assessment

No risk assessment has been undertaken in relation to this report.

Sustainability implications

There are no direct sustainability implications arising from this report.

Equalities implications

There are no direct equalities implications arising from this report.

Implications for the prevention of crime and disorder

There are no direct implications for the prevention of crime and disorder arising from this report.

Background papers

No published papers were relied on to a material extent. (see previous published reports to the Committee)

Contact Officer

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19. OVERVIEW AND SCRUTINY ARRANGEMENTS

19.1 The Committee considered a report from the Director of Cultural Services, an extract of the Policy and Resources Committee held on 23 June 2004 and a report from Internal Audit (see minute book).

19.2 The Committee noted with concern that the report on future scrutiny arrangements had been considered by the Policy and Resources Committee and a decision taken before this Committee had seen the report. It was felt that Committee should have been given the opportunity to comment on the report before the Policy and Resources Committee considered it. The reason given as to why this had not happened was that the report was in response to members concerns about scrutiny expressed at the last Council meeting. The Council had called for a report following concerns about the resourcing of scrutiny and the current level of support.

19.3 However, the Committee was concerned that an opportunity to contribute to the debate had been missed and that to date the advert for the additional post had still not been advertised despite the apparent urgency. In the circumstances the Committee agreed that the Chair write to the Chief Executive expressing concern about the failure to implement the decision and to send a copy to the Leaders.

19.4 The Committee considered the Internal Audit report and noted that normally this would be sent to the appropriate Director for action and would not normally be sent to members. The Committee noted that of the 22 recommendations all but 1 had been accepted and Internal Audit would follow up the recommendations in 6 months time to see if they had been implemented.

19.5 The Committee noted that the protocol appended as Appendix 'A' to the report was in effect a good practice guide and thus could be amended as such without having the need to change the Constitution.

19.6 The Committee considered whether it was appropriate that if a member called for a scrutiny of a particular subject that they should not then take part in the review because they would not be able to approach the review with an open mind; this could compromise the integrity of the outcome as members should not form a view until they had received all the evidence.

19.7 RESOLVED – (1) That the report be noted.

(2) That the Chair send a letter to the Chief Executive and copied to the Group Leaders, expressing the Committee's concern that the decision to appoint a Scrutiny Support Officer had not as yet been advertised.

(3) That the protocol for scrutiny panels be submitted to the next meeting of the committee to enable any amendments to be incorporated.

Ways of Working 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

As far as possible Scrutiny Panels will meet in public in accordance with the Access to Information Rules in Part 4 of the 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.

Membership of Scrutiny Panels

When a Member requests for a matter to be scrutinised, that Member should not be appointed as a Member of the ad-hoc panel scrutinising the issue. This would not preclude the Member from giving evidence to the ad-hoc panel as a lay or an expert witness.