

Subject: Future of Overview & Scrutiny
Date of Meeting: 1 February 2011
Report of: Strategic Director, Resources
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Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 The current scrutiny system was established in 2008 to operate within a directorate structure and is broadly comparable in terms of size, ways of working and configuration to other local authority's scrutiny functions.
- 1.2 Moves to the Intelligent Commissioning model, an increased prevalence of jointly commissioned/shared service delivery and legislative changes mean it is germane to consider how the current system could be improved.

2. RECOMMENDATION:

- 2.1 That the Committee agrees in principle the direction of travel as set out in the report and instructs officers to further develop proposals for a partnership based, commissioning friendly scrutiny function.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

Partnership Based Scrutiny

- 3.1 With increasing focus on partnership working shared service delivery across the public, private and third sectors is becoming increasingly significant. The move to an Intelligent Commissioning¹ framework will only strengthen the importance of partnership working in the city.
- 3.2 It is therefore suggested that the authority considers moving towards a partnership based scrutiny function. This enhanced scrutiny function would ensure the council, with its democratic accountability, is better integrated into the decision making processes of all the city's key public sector organisations.

¹ Commissioning is the process of identifying strategic outcomes in relation to assessed user needs, and designing and securing appropriate services to deliver these outcomes. The commissioning cycle can be summed up as understand, plan, do, review. Scrutiny will relate to each stage in the cycle in a different way.

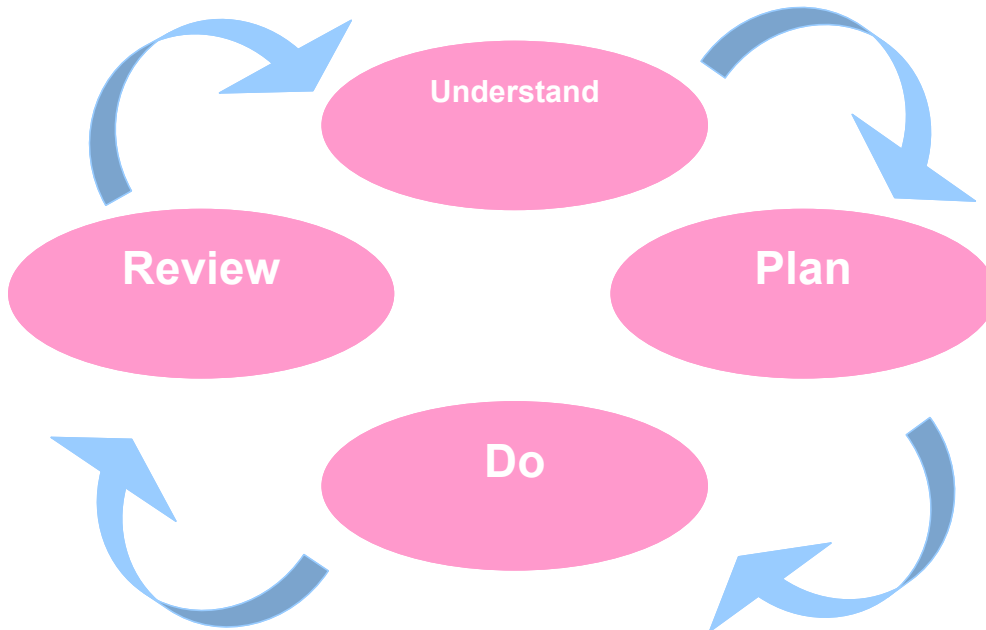
- 3.3 A Brighton & Hove partnership based scrutiny function could:
- Provide increased democratic accountability and input to all organisations within the city
 - Allow critical friend challenge to key decision makers and funding priorities
 - Review service provision in areas of weakness/priority areas for intervention
 - Act as a mechanism for innovative policy development
 - Provide a means for increased citizen and community involvement in decision making and service review
 - Offer a mechanism for independent review of issues of contention between organisations
- 3.4 In addition to Intelligent Commissioning a move to partnership based scrutiny is supported by a number of drivers:
- The findings of the 'Total Place' pilots that have highlighted the complexity of public service funding arrangements leading to inefficiencies and reductions in the effectiveness of services meeting resident's needs. HM Treasury's report into the Total Place pilots stated: *'Local authorities need strong scrutiny powers: including the ability to investigate and challenge, on behalf of their communities, those delivering local public services and spending public money in their area.'*
 - Anticipated reductions in funding for public service provision requiring closer partnership cooperation.
 - Legislative direction of travel, supporting a more integrated approach to scrutiny.
- 3.5 There already exists a protocol between the council's scrutiny function and Brighton & Hove's Strategic Partnership. Responding to the Local Government and Public Involvement in Health Act 2007 (LGPiH), this protocol recognised the need for co-operation between the Strategic Partnership and the development of overview and scrutiny work. The protocol sought to avoid duplication of effort and allows partners to request issues are reviewed by scrutiny.
- 3.6 The work being undertaken by scrutiny members considers some of the substantial cross-cutting issues that affect the city as a whole. Partners are involved in scoping panel topics, advising and supporting panels and as witnesses. The involvement of co-opted members sitting on panels, and in some cases chairing them has further helped develop links.
- 3.7 Consultation on an annual plan of scrutiny panels has been undertaken. In developing this plan, involvement of partner organisations (public, private and third sectors) has been sought. Ultimately there should be a degree of co-operation and co-ownership in regard to priorities of residents, partners, the council and the topics selected for scrutiny review.
- 3.8 Where specific issues arise scrutiny committees have been able to secure information and attendance from partner organisations, highlighting the strong partnership working that a new system could build upon.
- 3.9 Draft legislation has to date been silent as to the government's intent with regard to replacing scrutiny partnership powers relating to the LAA. Currently a number

of public sector organisations are required to provide information and evidence to scrutiny committees if requested under the LGPIH Act 2007.

- 3.10 Real value could be added through the use of an independent scrutiny function reviewing services and advocating improved working between partners. For example the Transfer of Care – the pathway for moving patients from hospital to community care involves a number of partners and is precisely the kind of area where partnership based scrutiny can add real value.
- 3.11 Another opportunity could be the budget scrutiny process; each organisation could bring their budgets proposals to the Scrutiny Board prior to final agreement in much the same way as occurred for the council budget during 2010/11. The Scrutiny Board would be able to look at the allocation of resources across the city, ensure strong synergy between the priorities of organisations and talk to all parties affected by changes to funding e.g. CVS re grant funding and the bus company re transport priorities.
- 3.12 There are a number of challenges that will need to be considered:
- The determination of scrutiny reviews would be subject to peer review
 - Partners will need to appreciate the benefits of scrutiny if they are to really buy into the process and have decisions and services questioned
 - Increased involvement of non-elected members in the scrutiny process and acceptance of their role
 - Resources will have to be appropriate to the challenge
- 3.13 Buy-in from partners will be vital for this approach. This will include an understanding not just that scrutiny will look at some of the key high level outcomes that partners are signed up to, but that they will as a matter of course; proactively bring issues to scrutiny for pre-decision scrutiny. This will require significant cultural change for bodies external to the council.
- 3.14 Whilst it is reasonably easy to envisage a scrutiny function undertaking reviews of services or policy development at a strategic partnership level it is harder to see some of the more confrontational elements of the scrutiny system sitting well within the partnership.
- 3.15 Call-in well illustrates the point. In a partnership scrutiny system would it be possible for a decision of any participating organisation to be called in? Would non-council members of a scrutiny board be able to call-in a council decision? This could raise some interesting constitutional arguments with regards the legitimacy of councillors versus non-elected members.
- 3.16 In addition some of the reviews scrutiny has undertaken have been very council-centric. You could argue that looking at something like Dignity at Work (bullying and harassment at work) is organisationally specific. However there would be nothing to stop a review of bullying and harassment policies across the council, PCT, Police, etc. This would require a level of acceptance of the role of scrutiny beyond that of just looking at joint policies for service delivery.

Scrutiny and Intelligent Commissioning

- 3.17 Intelligent Commissioning will change the way in which scrutiny committees undertake work. There should be far more pre-decision input, with items being routed through scrutiny as part of their development. This kind of pre-decision scrutiny has been identified by the Secretary of State for Communities and Local Government, as good practice by local authorities.
- 3.18 The basic commissioning cycle offers opportunities for scrutiny to add value to the services the council and partners commission.



- **Stage 1 - Understanding**
The commissioning process presumes there should be a clear intelligence base upon which service provision is delivered. This intelligence base should be considered by Scrutiny to quality assure intelligence, ensure adequate community and stakeholder engagement and using its democratic accountability recommend priorities for consideration.
- **Stage 2 - Planning**
At this stage draft delivery plans should be brought to scrutiny and pre-decision scrutiny would look to ensure clear links between intelligence base and the proposed service/actions designed to meet the needs identified. Member comments would be utilised to further refine the proposed service provision and seek broad support for the allocation of resources. Members will also want to be satisfied that performance monitoring arrangements are adequate.
Bringing information to scrutiny at this stage would provide democratic input into the process prior to an Executive decision on allocating resources. This would also allow for citizen and community participation into the decision making process.

- **Stage 3 – Do (delivery)**
It is not anticipated that scrutiny would have involvement at this stage beyond general overview.
 - **Stage 4 - Review**
Possibly the most significant role for scrutiny is in evaluating services commissioned and their impact on city outcomes. From a scrutiny point of view the commissioning cycle offers clear statements of need and intent. Scrutiny could consider:
 - Are services value for money?
 - Do interventions/services meet the needs of residents?
 - Have services resourced addressed the need identified?
 - How can services be improved or changed?
- 3.19 Intelligent Commissioning presents challenges for scrutiny in that panel work will need to be closely linked into the Commissioning Cycle. Detailed intervention into a policy area will need to be timed to ensure recommendations can feed into the next stage of commissioning.
- 3.20 This will require a high level of understanding amongst scrutiny practitioners of the commissioning cycle and focusing limited resources to the greatest effect.
- 3.21 Moves towards an annual priority list of scrutiny panels and consultation on these across the Council and with partners should help with this process.
- 3.22 If scrutiny's pre-decision role is established within IC it would be possible to redesign the existing arrangements and achieve better outcomes for the authority across the city.
- Legislative Changes**
- 3.23 In developing new ways of working it will be necessary to ensure that Government proposals for health and police accountability are taken into account and along with changes prescribed by the Localism Bill.
- 3.24 Changes put forward by the Government regarding health scrutiny provide an opportunity for considerable development. Along with the abolition of PCTs and a greatly enhanced commissioning role for GPs, HOSCs are set to enjoy increased responsibilities.
- 3.25 The Police Reform and Social Responsibility Bill sets out plans for directly elected Police and Crime Commissioners (PCC) and Police and Crime Panels (PCPs), consisting of Councillors from all local authorities within police authority area to support/challenge PCC. The Council is currently required to have a Crime and Disorder Scrutiny Committee (ECSOSC) which has powers to scrutinise the Safer Communities Partnership.
- 3.26 Essentially any new scrutiny function needs to ensure a more cross-cutting and strategic approach to work, dovetailing with intelligent commissioning agenda whilst enjoying a city-wide focus.

○ **Option 1:**

A single Scrutiny Board with themed sub-boards reporting to it. Each themed board would focus on an agreed set of LSP priorities for example:

- Health and Well-being
- Housing and Environment
- Communities and Culture
- Learning and Enterprise

Under this arrangement it would be possible to take the opportunity to reduce the number of standard meetings for each of the Boards, to minimise the treadmill effect that is not conducive to good scrutiny. Instead built into the commissioning cycle could be a requirement for engagement with scrutiny. This would allow for far greater use of single issue workshop review/policy development sessions.

○ **Option 2:**

A more radical option would be to have a single Scrutiny Board that manages the entire scrutiny agenda, but does no scrutiny itself. Rather establishing workshops, panel and task-and-finish groups to undertake specific pieces of work, the Board would include non-executive members from public sector partners and other co-opted members.

This approach could fit well with Intelligent Commissioning so long as Commissioners are clear on the requirement to engage with the scrutiny process at various points within the cycle.

4. CONSULTATION

4.1 Political Group Leaders have been consulted.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 There are no direct financial implications arising from the report. Any future recommendations for changes to the scrutiny function may have financial implications.

Finance Officer consulted: Anne Silley

Date: 19/01/11

Legal Implications:

5.2 Under existing legislation, the Council is required to have one or more overview and scrutiny committees which must include provision for: (a) the planning, provision and operation of health services in the city; and (b) a Crime & Disorder Committee. Further, the council must designate one of its officers to be a 'scrutiny officer' to carry out functions such as promoting the role of overview and scrutiny, and to provide support and guidance to members and officers on O & S matters. Any proposals for changes to the scrutiny function will need to meet legislative requirements in force at the time.

Lawyer consulted:

Oliver Dixon

Date: 19/01/11

Equalities Implications:

- 5.3 Changes to the scrutiny function will need to ensure that mechanisms exist to ensure that equality issues can be addressed. Currently six monthly updates on equality are reported to the Overview and Scrutiny Commission.

Sustainability Implications:

- 5.4 Changes to the scrutiny function will need to ensure that mechanisms exist to ensure that sustainability issues can be addressed.

Crime & Disorder Implications:

- 5.5 The Council is currently required to have a Crime and Disorder Scrutiny Committee. Any new arrangements will need to incorporate this requirement.

Risk and Opportunity Management Implications:

- 5.6 In developing more detailed proposals for changes to scrutiny a risk assessment of the various options will need to be considered.

Corporate / Citywide Implications:

- 5.7 A citywide, partnership based scrutiny function will add value to the city; improve decision-making and policy development across partners.

SUPPORTING DOCUMENTATION

Appendices:

None

Documents In Members' Rooms

None

Background Documents

None

