

CONSTITUTION SIG - 17 JANUARY 2014

EXECUTIVE – 4 FEBRUARY 2014

REVIEW OF OVERVIEW & SCRUTINY ARRANGEMENTS

INTRODUCTION

1. Officers have identified a number of issues with the current O&S arrangements at Waverley, relating to the terms of reference and procedural arrangements as set out in the Constitution; and also some cultural issues around O&S that appear to impact on how Members and Officers see the role of O&S and which affect its effectiveness.
2. The Executive has asked for a review of the arrangements for O&S at Waverley, to be considered by the Constitution SIG in January 2014. In view of the short timescale available, it has not been possible to canvass the views of Members or officers about how they feel O&S is working.
3. The aim of reviewing Waverley's O&S arrangements is to explore the strengths, achievements and challenges of the current arrangements and use these as the basis for an improvement plan.

BACKGROUND

4. O&S arrangements were introduced in the Local Government Act 2000, which created separate Executive and O&S functions within local authorities. The 2000 Act required that each council have a written constitution, which should specify the functioning of the overview and scrutiny structures (including the number, membership and powers/rights of committees) and define the working of the call-in function; it also introduced a new concept of a 'community leadership role' for councils.
5. There was little in the 2000 Act to indicate what the scrutiny role should consist of, but subsequent guidance indicated that it should include policy development work as well as holding the executive to account. Guidance also suggested that overview and scrutiny might range over topics outside the council's remit, linking in with the community leadership role. Councils were allowed considerable scope to structure their scrutiny arrangements as they saw fit, and a variety of structures emerged.
6. In the years since O&S was introduced in local authorities there has been a considerable amount of research into how the role has been implemented, and how effective it has been. The lack of prescription around how O&S should be put into effect is both a strength and a weakness. Although there is more clarity about the value and potential of the O&S function in local government, it still presents a challenge to local councils. In order to work, O&S needs both the structural elements to be right – the number and organisation of committees – and for there to

be a culture that values and respects the role of O&S, and encourages and supports Members to explore the full potential of O&S.

FUNCTIONS OF O&S

7. The purpose of introducing the O&S role in local government was to ensure that decision-making is efficient, transparent and accountable, and the best decisions are taken in the interests of people and places.
8. The principal functions of O&S are:
 - Holding decision-makers to account, including (but not limited to) right of 'call-in'
 - Pre-decision scrutiny of proposals on their way to the Executive
 - Performance monitoring
 - Policy development and review
 - Scrutiny of public services delivered by external organisations

Good scrutiny (CfPS):

- Is carried out by independent-minded, non executive councillors who lead and own the scrutiny process;
- Provides a critical friend challenge to executive policy-makers and decision-takers
- Enables community involvement
- Drives improvement in public services

The benefits of O&S (SCC) include:

- Gives officers an external and independent view of their service, its strengths and weaknesses – it is a critical friend
- Provides Members with confidence in the performance of the organisation
- Gives non-Executive Members the opportunity to be involved in policy development at an early stage and provides officers with an early steer
- Enables the public to engage with the political process
- Provides non-Executive Members with an opportunity to deal with issues that the Executive does not have time to deal with
- Examines matters of wider local concern

The tools of O&S include:

- Call-in
- 'Select committee' mode
- Task & finish groups
- Conduct site visits
- Conduct public surveys
- Hold public meetings
- Co-opt non-Members

O&S AT WAVERLEY

9. Currently there are two Committees – Corporate (with a Housing Improvement Sub-Committee) and Community (with a Performance Sub-Committee). Community O&S Committee currently fulfils the statutory role of Waverley’s ‘Crime and Disorder’ committee (Crime and Disorder (Overview and Scrutiny) Regulations 2009), although this is not formally included in the Terms of Reference.
10. When considering ‘terms of reference’ the focus is on the split of council business areas detailed in Article 4 of the Constitution – the other aspects of the ToR i.e. what powers O&S committee have available to them in - have a low profile with O&S members, although they are reminded of the ToR at the start of each Council year.
11. Whilst the Committees are invited each year to submit proposals for in-depth reviews, the topics proposed are often not appropriate. Waverley has no criteria for assessing the suitability of topics for review to help Members in identifying topics. (example – suggestions & officer comments) NB Community O&S have, in the past, tried to embrace the sentiments of the function (with O&S officer support) to carry out reviews including inviting stakeholders to Select Committees, but have not engaged with service users, recommendations have been weak, and not SMART.
12. The last round of O&S training was in 2011, following the last Council election, and was delivered by SEE.
13. The CfPS has developed a framework (*Accountability works for you*) that can be adapted for a scrutiny evaluation. It suggests a high level evaluation can be carried out as a desk-top exercise by officers based on a series of questions. The next stage is an in-depth analysis drawing together themes that have become apparent from the high level evaluation. It is suggested that this might be undertaken by an O&S task & finish group, which may seek evidence/opinions from corporate directors/officers, executive members, councillors generally, people from partner organisation.

ISSUES

Structural:

14. Call-in procedure needs to be clarified and tightened – there are good examples of O&S procedures whereby the reason for a call-in has to be set out as part of the proposal to call-in
15. No. of Committees and division of responsibilities – the division of business areas between the Corporate and Community O&S committees needs to be refreshed, to ensure that areas of the council’s business are included; there is currently no formal means of co-ordinating business between the committees to avoid omissions or resolve overlaps.

16. Sub-Committees – O&S should have the power to set up its own sub-committees without the confirmation of the Executive (Executive involvement against the spirit of O&S).
17. Task & finish groups – currently not included in procedure rules (therefore not specifically included or excluded) – if they are used there is an issue around whether they meet in private or public. There needs to be a distinction between SIGs (advisory to an Executive Member) and a Task & Finish Group - both could be involved in policy development, though taking different approaches.
18. Whipping – should be recognised in the Constitution or Procedure Rules.

Cultural:

19. Too much time focused on passive activities - receiving reports, monitoring performance indicators; there is little planned or structured research undertaken in order to positively influence and shape future policy.
20. Work programme development – agendas are officer-driven rather than Member-led.
21. Little policy development and review (as distinct from pre-decision scrutiny of policies that have been reviewed by officers, and are on their way to the Executive for approval).
22. Opportunity to embrace a broader community role.

PROPOSAL

- 1) Revise the Constitution and O&S Procedure rules to: clarify call-in procedures; refresh division of council business between the committees; clarify O&S powers around setting up sub-committees and Task & Finish Groups;
- 2) Approach – draw up proposals, discuss with O&S chairs and vice-chairs, report to March cycle of O&S for comments, report to April Executive and Council for confirmation – adopt from 2014/15 council year (June O&S cycle);
- 3) Informally, HoP&G to engage with chairs & vice-chairs to try and plan meeting agendas for the coming year and help develop a work programme;
- 4) Chairs and vice-chairs (and any prospective chairs/vice-chairs) to be encouraged to go to the ELGH workshop *Scrutiny: making an impact* on 11 February 2014.

At its meeting on 17 January, the SIG agreed that a review of the Overview and Scrutiny Arrangements in line with the approach set out in this paper would be beneficial and that the Executive be advised accordingly, via the Portfolio Holder.