

REPORT TO: SCRUTINY COMMITTEE

DATE: 14 JULY 2020

TITLE: REVIEW OF OVERVIEW AND SCRUTINY – FINAL REPORT

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RECOMMENDED that the Committee:

- A** Recommends to Full Council that the Cabinet-Scrutiny Protocol (attached as Appendix A to the report), the revised Scrutiny Procedure Rules (attached as Appendix B to the report) and the revised Scrutiny Committee Terms of Reference (attached as Appendix C to the report) are adopted.
- B** Recommends to Cabinet that the Cabinet Overview Working Group is renamed the Cabinet Policy Development Group and the terms of reference are amended as set out in Appendix D to the report.
- C** Approves the Scrutiny Committee Review Submission Form (attached as Appendix E to the report).
- D** Agrees that training is procured to take place as soon as possible.

BACKGROUND

1. Under the Cabinet system the Council is required to establish a Scrutiny Committee. Its Terms of Reference are set out in Article 7, and its rules in Part 4 of the Constitution. The Committee can report on the discharge of any functions of the Council or Cabinet or any matter affecting the Council's area or inhabitants. Part of this Committee's function is also to enable decisions of the Cabinet to be called in. The Council's Scrutiny Committee has a Call In Sub Committee which fulfils this purpose.
2. The Ministry of Housing, Communities & Local Government (MHCLG) has published new statutory guidance on Overview and Scrutiny in Local and Combined Authorities (May 2019). This is statutory guidance of which the authority 'must have regard' to in exercising the functions.
3. In light of this guidance, on 15 October 2019, the Committee agreed to conduct a review of the Council's overview and scrutiny functions and established a Working Party for this purpose. The Working Party was given an end date of 31

March 2020 in order to allow any changes to take effect for the 2020/21 council year.

4. The Working Party has met on two occasions. The first meeting on 8 January 2020 looked at areas where the Council's scrutiny functions were strong and areas where the functions could be strengthened in order to meet the guidance. It also explored a number of potential solutions which would be developed in time for the second meeting.
5. The second meeting took place on 6 February 2020. This meeting agreed to recommend the proposals which are set out in the recommendations and detailed later in this report.

ISSUES/PROPOSALS

6. It was agreed that proposals would be framed in the context of the four goals set out in paragraph two of the guidance. These are:
 - a) Provide constructive 'critical friend' challenge;
 - b) Amplify the voices and concerns of the public;
 - c) Be led by independent people who take responsibility for their role; and
 - d) Drive improvement in public services.

Provide constructive 'critical friend' challenge

7. One of the key roles of a scrutiny committee is to act as a critical friend to the Cabinet and external organisations. The Committee should be able to hold these groups to account, but should also be constructive and approachable.
8. The Council has a Call In Sub Committee which deals with executive decisions through a 'call in procedure.' This procedure is set out within the Constitution and provides an opportunity to hold the Cabinet to account. However, call in is only designed to be used when decisions have not been made in accordance with the principles of the Constitution and it does not allow for constructive input before a decision is made. Call in, therefore, provides an important but infrequent method of engaging with the Cabinet.
9. The Working Party suggested there was a need have procedure in place which enables the Committee to provide constructive 'critical friend' challenge to the Cabinet on a more frequent basis, which also provides an opportunity for input prior to a decision being made.
10. It is therefore proposed to create a process for pre-decision scrutiny of Cabinet matters. This would involve the Committee identifying upcoming decisions on the Cabinet's Forward Plan and aims within the Council's Corporate Plan which

the Committee can then conduct pre-decision scrutiny of. The process is set out in the Cabinet-Scrutiny Protocol, which is attached as Appendix A to the report.

11. The Protocol also sets out the expectations that the Committee and Cabinet should have of each other and creates a formal relationship between the two.
12. Acting as a critical friend extends to the Committee's relationship with external organisations. The Committee invited a number of organisations to attend its meetings over the past few years. The Working Party agreed that these have been effective and informative. It did however note the Committee's desire to have a greater level of preparation, particularly regarding the agreement of questions and aims. Paragraph 6 of the Protocol addresses these concerns.

Amplify the voices and concerns of the public

13. One of the main roles of a Councillor is to act as an advocate for the people they represent. The Committee has a wide remit and can look at most issues that affect the local area. This places it in a strong position to voice the concerns of the public.
14. The Committee, and Councillors as a whole, have a strong understanding of issues affecting the town. This, combined with the Committee's remit, provides a powerful platform for the Committee to drive improvement.
15. The Working Party considered ways in which the Committee could strengthen its processes to drive improvements effectively and efficiently. Whilst the Committee works effectively as a group and shares a large number of common aims, these need to be more focussed so the Committee looks to conduct scrutiny on the basis of one set of goals for each review.

Be led by independent people who take responsibility for their role

16. The Committee's independence is crucial in helping to demonstrate its value to the Council, other organisations and the town as a whole. The Committee has a good awareness of this and the Committee members work together well. It is important that this independent working culture continues. There is a risk that new Committee members, particularly if they are new Councillors, will not be aware of this need for independence. The Working Party recommended that training is organised for Councillors. This training would have a strong focus on the role of the Committee to ensure that its independent mind set continues.
17. Overview and scrutiny needs to ensure that it is not directed by Cabinet. The Scrutiny Committee achieves this and has the power to set its own work plan. Cabinet has established a Cabinet Overview Working Group (COWG) which is primarily focussed on developing policy for the Cabinet. It provides a means for opposition and backbench Councillors to have input into policy which is developed according to the Council's corporate priorities. The Working Party agreed that this needed protecting. The COWG is not independent from Cabinet, as the Cabinet decides its work plan. Whilst the COWG rarely conducts overview and scrutiny of the Cabinet, better defining what the Working Group

actually does and detangling it from overview and scrutiny is seen as beneficial. It is therefore proposed to change its name to the Cabinet Policy Development Working Group.

Drive improvement in public services

18. The most fundamental aspect of the Council's role is to provide and improve public services. Councillors are at the core of this and the Committee provides a powerful opportunity to drive improvement, not just of the Council's own work but also of other organisations.
19. The Committee has limited resources, mainly surrounding its own time and that of Officers conducting reviews. These limit the Committee's ability to review all the matters it would like to and can place limits on the depth and breadth of the reviews it carries out. Careful prioritisation of reviews will help the Committee in producing a work plan that leads to positive outcomes which can improve Harlow.
20. Prioritisation can be complex as there are a wide range of factors to consider including: how urgent the issue is; the amount of work involved; which areas the review will scrutinise; and whether a positive outcome is likely.
21. The Committee needs to retain its flexibility when setting its work plan, whilst recognising the time resource constraints it faces.
22. The majority of the Committee's review topics for any given year are determined at its first meeting of the Council year, with new topics being added throughout the year. Topics can be raised without prior notice being given. This process is highly flexible, but can cause issues with planning items into the work plan.
23. The Cabinet-Scrutiny Protocol sets out a proposed process for setting the Committee's work plan. This retains the flexibility for Councillors to submit items throughout the year, and provides an opportunity for more open conversations about the scope of reviews and the time needed to carry them out.
24. The Committee retains the flexibility to determine the form of its review submission form. In the first instance it is recommended that the form attached as Appendix E to this report is used. This form largely mirrors the current scoping report. This enables Councillors to more fully capture the nature of the reviews they want to undertake, whilst giving the Committee the opportunity to discuss and amend the scope of a review to accommodate its other priorities.
25. The need to deliver outcomes is central to the Committee's work. Councillors want to deliver change and often succeed, but the processes surrounding the Committee can be strengthened to make outcomes a more central component within its reviews. The Protocol has a running theme of S.M.A.R.T (specific, measurable, achievable, realistic, and time-related) objectives and recommendations. This will assist the Committee in framing its work for a particular purpose and, following the conclusion of a review, whether the review

met its initial aims. The Committee can then evaluate its own effectiveness, looking at where it succeeded and where it could improve.

Summary

26. The Committee has a strong foundation in place which helps enable it to conduct effective scrutiny. There are, however, some areas where the Council does not meet the Government's guidance and the Council can look to strengthen other processes to make scrutiny as effective as possible.
27. The Cabinet-Scrutiny Protocol addresses the need for the Committee to act as a 'critical friend' to Cabinet. Additionally, it sets out a procedure for work planning which promotes open conversations about the Committee's priorities whilst retaining the flexibility necessary for the Committee to respond to emerging needs.
28. The Protocol also introduces processes which reinforce the desire of Councillors to achieve the best outcomes for Harlow and provide an opportunity for self-reflection.
29. There is a need to amend the Scrutiny Procedure Rules (attached as Appendix B to the report), the Scrutiny Committee Terms of Reference (attached as Appendix C to the report) and the Cabinet Overview Working Group Terms of Reference (attached as Appendix D to the report).
30. Finally, training will be procured to ensure that the independent mind set of the Committee continues whilst enhancing its existing skills.

IMPLICATIONS

Environment and Planning (Includes Sustainability)

None specific.

Author: Andrew Bramidge, Head of Environment and Planning

Finance (Includes ICT, and Property and Facilities)

None specific.

Author: Simon Freeman, Head of Finance and Deputy to the Chief Executive

Housing

As outlined in the report.

Author: Andrew Murray, Head of Housing

Community Wellbeing (Includes Equalities and Social Inclusion)

None specific.

Author: Jane Greer, Head of Community Wellbeing

Governance (Includes HR)

As contained within the report.

Author: Simon Hill, Head of Governance

Appendices

Appendix A – Cabinet-Scrutiny Protocol

Appendix B – Scrutiny Procedure Rules

Appendix C – Scrutiny Committee Terms of Reference

Appendix D – Cabinet Overview/Policy Development Working Group Terms of Reference

Appendix E – Scrutiny Committee Review Submission Form

Background Papers

Ministry of Housing, Communities & Local Government – ‘Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/800048/Statutory_Guidance_on_Overview_and_Scrutiny_in_Local_and_Combined_Authorities.pdf

Glossary of terms/abbreviations used

COWG – Cabinet Overview Working Group

MHCLG – Ministry of Housing, Communities & Local Government