

OVERVIEW AND SCRUTINY COMMITTEE

Agenda Item 8

Brighton & Hove City Council

Subject:	New Governance Arrangements and the work of the Overview and Scrutiny Committee		
Date of Meeting:	16 July 2012		
Report of:	Strategic Director Resources		
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Wards Affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report describes the role of the Overview and Scrutiny Committee in the new constitutional arrangements. It refers to Health and Wellbeing Overview and Scrutiny Committee for information.
- 1.2 The report references the report on the updated New Constitution for Brighton & Hove City Council which was approved by Special Council on 26th April 2012.

2. RECOMMENDATIONS:

- 2.1 That Members of the Overview and Scrutiny Committee (OSC) note the role of the OSC.

3. BACKGROUND INFORMATION

Constitutional powers of the Overview and Scrutiny Committees

- 3.1 The new Constitution confirms that Overview and Scrutiny is:

'...an important element of the Council's Constitution...[and] concerned with the overall well being of the City and all factors affecting this including not only Council services but those of other agencies (with a particular statutory role in respect of health services).'

3.2 The table below shows the membership and functions of the Overview and Scrutiny Committee and the Health and Wellbeing Overview and Scrutiny Committee, as well as the Panels they can establish, as outlined in the Constitution agreed on 26 April 2012.

Name of Committee	Membership	Functions
Overview and Scrutiny Committee	10 Members of the Authority Cllrs Morgan, Cox, Buckley, Follet, Hawtree, Brown, K. Norman, Farrow, Marsh Plus one tba	This Committee discharges on behalf of the Council all overview and scrutiny functions, except those delegated to the Health and Wellbeing Overview and Scrutiny Committee. It considers requests for scrutiny reviews and establishes policy review and scrutiny review Panels to undertake task and finish work. It is the Crime and Disorder Committee for the purposes of the Police and Justice Act 2006. It also undertakes scrutiny of flood risk and coastal erosion plans as required by Localism Act 2011.
Health and Wellbeing Overview and Scrutiny Committee	8 Members of the authority plus 3 non voting cooptees and voting education cooptees where these are required by legislation	This Committee discharges on behalf of the Council all overview and scrutiny functions in relation to health, children and young people (including education) and adult social care.
Scrutiny Review Panels and Policy Review Panels	As determined by the Overview and Scrutiny Committee	The Overview and Scrutiny Committee has power to set up Scrutiny or Policy Panels. Each Panel meets until it has produced a report on the subject it was required to examine.

3.3 The Constitution then goes on to describe in greater detail the work of the OSC, including that it will:

- meet on a quarterly basis
- primarily be a commissioning body, co-ordinating the O&S work programme through the establishment of panels
- undertake limited direct scrutiny of services relating to Place, Communities, Resources and Finances
- report annually to full Council on its workings

- have the power to call-in and review decisions made but not yet implemented by a Policy Committee
 - set its own work programme
 - determine whether to accept a Councillor Call for Action (CCfA) referral
- 3.4 For information only for OSC Members, the Constitution also describes in greater detail the work of the HWOSC, including that it will:
- meet 6 times per annum
 - establish panels in relation to its terms of reference to scrutinise specific issues and undertake policy development work
 - have the power to call-in and review decisions made but not yet implemented by a Policy Committee
 - set its own work programme
 - determine whether to accept a Councillor Call for Action (CCfA) referral

Role of Overview and Scrutiny in the new Committee System

- 3.5 The establishment of Policy Committees now means that there are now forums to carry out pre-decision, cross-party, debates. This enables Overview and Scrutiny Committees to focus on commissioning panels which can take an in-depth look at complex issues of importance to the city. This report highlights some of the issues which could be included in the work programme of the Overview and Scrutiny Committee.
- 3.6 Panels can be extremely flexible mechanisms through which to address issues. From single day sessions to lengthy investigations they can be moulded to suit the issue and timescale needed.

Councillor Call for Action

- 3.7 The CCfA is an extra means for Councillors, as community leaders, to raise issues of local community concern, for consideration by the Council's overview and scrutiny function, on behalf of residents.
- 3.8 A CCfA should only be raised where other means of resolving the matter have been exhausted. Any Member of the Council may raise a CCfA, which should be sent to the Head of Scrutiny. In seeking to raise a CCfA a Councillor needs to:
- State why they consider the issue should be looked at
 - Give a brief description of what are the main areas of concern
 - Supply evidence in support of the CCfA
 - Indicate areas or groups affected by the CCfA
 - Explain what has been done to try and resolve the issue
 - State if there are any deadlines relating to the issue
- 3.9 Once they receive a CCfA, either HWOSC or OSC will use the following criteria to decide whether or not to take the matter further:

- Have all reasonable attempts have been made to resolve the issue by the ward councillor? Do the responses received by the referring councillor show that progress is not being made with this matter?
 - Has the committee considered a similar issue recently – if yes, have the circumstances or evidence changed?
 - Is there a similar or related issue which is the subject of a review on the current work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing.
 - Relevant time pressures on resolving the CCfA should be taken into account.
 - Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the councillor received?
 - Does the matter referred have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements in the referring member's ward?
 - Is this an issue that would be more properly dealt with in another way e.g. the complaints process
- 3.10 Overview and Scrutiny (O&S) Committees in considering a CCfA may undertake any of the activities of a normal scrutiny committee.
- 3.11 The Councillor only has the power to refer a matter if it is of direct concern to the ward they represent. A Councillor can refer a matter even if nobody has asked him/her to consider it, and there is no requirement for Councillors in multi-member wards to jointly agree – any of them may refer a matter.
- 3.12 It is important to recognise that CCfA is not guaranteed to solve a given problem. However it can provide a method for discussing such problems and, through discussion, trying to overcome them.
- 3.13 The following matters are excluded from referral as a CCfA:
- Individual complaints concerning personal grievances or commercial issues.
 - Any matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman), for example:
 - Planning and licensing applications and appeals;
 - Council Tax/Housing Benefits complaints and queries;
 - Issues currently under dispute in a court of law.
 - Any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of an Overview and Scrutiny Committee or any of its Panels.

Call-in of Policy Committee Decisions

- 3.14 Call-in is a process by which O&S Committees can recommend that a decision made by a Policy Committee but not yet implemented be reconsidered by the body which made the decision.
- 3.15 Call-in does not provide for the O&S Committee to substitute its own decision, but just to refer the matter back to the decision-maker. A decision maker can only be asked to reconsider any particular decision once.
- 3.16 Call-in should only be used in very exceptional circumstances. Day to day management and operational decisions taken by officers may not be called-in.
- 3.17 Any decision made by the Policy Committee, or a key decision made by an officer under delegated powers may be called in up to five working days from the date of the meeting at which the decision was taken.
- 3.18 During this period, any five Members of the Council, from a minimum of two political groups may request that a decision be called-in for Scrutiny by the relevant O&S Committee.
- 3.19 If the Chief Executive accepts the request then he/she is calling-in the decision. This will mean that the decision will be suspended and the Chief Executive shall inform the decision maker e.g. Committee Members, or officer and the relevant Chief Officer(s) of the call-in.
- 3.20 When deciding whether or not to refer a decision back, the relevant O&S Committee shall consider if:
- any further information which may have become available since the decision was made
 - the implications of any delay; and whether reconsideration is likely to result in a different decision
 - the importance of the matter raised and the extent to which it relates to the achievement of the Council's strategic priorities
 - there is evidence that the decision-making rules in the constitution have been breached
 - the agreed consultation processes have not been followed
 - or that a decision or action proposed or taken is not in accordance with a policy agreed by the Council
 - other avenues may be available to deal with the issue
- 3.21 The O&S Committee may refer the decision back to the decision making body for reconsideration, setting out in writing the nature of its concerns. If it considers the decision is contrary to the policy framework or budget agreed by the Council, the matter may be referred to the full

Council to determine whether or not it should be referred back to the decision making body.

4. CONSULTATION

- 4.1 New constitutional arrangements were agreed after consultation with Members.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 All scrutiny work will be carried out within current resource limits.

Legal Implications:

- 5.2 None to this report for information.

Equalities Implications:

- 5.3 None to this report for information.

Sustainability Implications:

- 5.4 None to this report for information.

Crime & Disorder Implications:

- 5.5 None to this report for information.

Risk and Opportunity Management Implications:

- 5.6 None to this report for information.

Corporate / Citywide Implications:

- 5.7 None to this report for information.

SUPPORTING DOCUMENTATION

Documents in Members' Rooms:

Background Documents:

1. Brighton & Hove City Council Constitution (report to Council on 26th April 2012) [http://present.brighton-hove.gov.uk/Published/C00000117/M00003925/AI00026052/\\$Item08120412Aappendix1shortformconstitution.doc.pdf](http://present.brighton-hove.gov.uk/Published/C00000117/M00003925/AI00026052/$Item08120412Aappendix1shortformconstitution.doc.pdf))