

Report to the Constitution and Members Services Standing Scrutiny Panel



Date of meeting: **8 November 2011**

Report of : Assistant to the Chief Executive

Subject: Reporting by Scrutiny Panel Chairmen at Council Meetings

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Recommendations:

- (1) To consider the principle of whether Scrutiny Panel Chairmen should present reports at Council meetings instead of the Chairman of the Overview and Scrutiny Committee;
- (2) To consider the following additional matters:
 - (a) whether reporting by Panel Chairmen should apply to both Task and Finish and Standing Scrutiny Panels;
 - (b) whether reports which derive from the work of more than one Panel should continue to be presented by the Chairman of the Overview and Scrutiny Committee;
 - (c) whether the Chairman of the Overview and Scrutiny Committee should be informed or consulted by Panel Chairmen when they intend to submit a report to the Council;
 - (d) whether Panel reports which are amended to a significant degree by the Overview and Scrutiny Committee should then be reported on at Council meetings by the Chairman of the Overview and Scrutiny Committee;
 - (e) whether Panel chairman should be able to report direct to other Council bodies as well as the Council; and
- (3) That a report be submitted to the Overview and Scrutiny Committee and the Council on any amendments required to the Constitution on the Panel's preferred options.;
- (4) That the Assistant to the Chief Executive be authorised to include in the report to the Council any consequential changes to the Constitution provided they are significant but otherwise to make minor amendments once the Council has made a decision.

(5)

Introduction

1. The Panel previously asked for a review of the presentation of Overview and Scrutiny Reports at Council meetings.

Current Procedure

2. Standing and Task and Finish Scrutiny Panels have the status of sub-committees of the Overview and Scrutiny Committee in that they are appointed by the Committee and report on their work programmes and the progress they are making. As such, Panels would not normally report to the Council unless specifically authorised to do so by the Committee.
3. The current arrangements are set out in Overview and Scrutiny Procedure Rules 12 (Standing Scrutiny Panels) and 13 (Task and Finish Scrutiny Panels). The requirements for both types of Panel are the same:

"Panels will be able, with the prior approval of the Overview and Scrutiny Committee, to report direct to the Cabinet, a Cabinet Committee, a Portfolio Holder, another Committee or to the Council with recommendations. In practice, this procedure is only being exercised in one or two cases of urgency."

General Considerations

4. Most detailed work carried out by Overview and Scrutiny is conducted through the Standing and Task and Finish Panels. The Constitution envisages that the Overview and Scrutiny Committee will effectively manage the work of those Panels, agreeing their work programme and receiving progress reports against deadlines set. The Overview and Scrutiny Committee itself undertakes some Scrutiny work particularly in questioning representatives from other public bodies about service changes, etc. which might affect the District. Most detailed work is however, conducted through Panels.
5. Bearing in mind the work undertaken by Panels, it can be argued that it will be the Panel Chairman, rather than the Chairman of the Overview and Scrutiny Committee, who has the detailed knowledge of the report to be submitted. Such reports when submitted to the Council might involve changes Council policies and practices where detailed knowledge is desirable in order to answer questions at Council meetings.
6. On the other hand, the Overview and Scrutiny is constitutionally the counterbalance to the Cabinet. The Overview and Scrutiny is required to monitor the work of the Cabinet, if necessary calling in decisions for further review and also to undertake policy work on behalf of the Council whether requested by the Cabinet or otherwise, in a way which is unencumbered by the executive responsibilities of executive members.
7. Because of this, it is important that the role and status of the Chairman of the Overview and Scrutiny Committee is not undermined to such an extent that the position is seen to be less significant than the Panel Chairmen and the Cabinet. The current Constitution reflects the "managerial" role of the Overview and Scrutiny Committee in determining the terms of reference, membership and work programmes of all the Panels. If changes are to be made in order to allow Panel Chairmen to report directly to the Council it is recommended:
 - (a) that Panel reports should not be proceeding directly to the Council without first being considered by the Overview and Scrutiny unless (i) it is agreed in advance; or (ii) is agreed by the Chairman of the Overview and Scrutiny Committee e.g. an urgent consultation effecting the policy/financial framework; and
 - (b) that reports by Panel Chairmen at Council meetings should not extend beyond any report which has been previously agreed by the Overview and Scrutiny Committee or

matters which are outside their terms of reference or work programme.

Key Questions

7. In considering any changes to the Constitution that the Panel may wish to recommend, some key questions arise which may help to frame the general approach to be taken:
- (a) are the reports which are presented to the Council to be in the name of the Scrutiny Panel or the Overview and Scrutiny Committee?
 - (b) are the same rules to apply to Standing Scrutiny Panels and Task and Finish Panels?
 - (c) if the Overview and Scrutiny Committee were to amend the report of the Panel, would any consequential report to the Council then become the report of the Overview and Scrutiny Committee?
 - (d) are Overview and Scrutiny procedure rules 12 and 13 to be amended to delete the requirement for prior consent from the Overview and Scrutiny Committee replace this with a new rule which would say that the Task and Finish or Standing Scrutiny Panels should report on all occasions unless the Overview and Scrutiny Committee dictate otherwise.
 - (e) in the event that the Panel Chairmen were able to report to a Council meeting but will be absent, will responsibility for making the presentation fall to the Chairman of Overview and Scrutiny Committee or to the Vice-Chairman of the Panel?
 - (f) the present rule encompasses reports to other bodies such as the Cabinet – are the same rules to apply?

Consultation

8. When the Panel considered this item previously officers were asked to consult all Panel Chairmen together with the Chairman of the Overview and Scrutiny Committee for their views. The closing date of 9 September 2011 was set and there was no feedback received on the proposal. Any Panel Chairmen or the Chairman of the Overview and Scrutiny Committee were also invited to attend this meeting if they so wished in order to express their views directly.

Constitutional Changes

9. The Panel is asked to consider what provision they want to make in the Constitution for amending Rules 12 and 13. These can then be worked up in a draft report to Council by the Assistant to the Chief Executive. There may be other consequential changes to the Constitution arising from these discussions and it is suggested that the Assistant to the Chief Executive should only include those in the report if they are significant.