



ADUR & WORTHING
COUNCILS

Joint Overview and Scrutiny Committee
21 November 2019
Agenda Item 9

Key Decision [No]

Ward(s) Affected:N/A

Review of the effectiveness of the Overview and Scrutiny Committees

Report by the Director for Digital and Resources

Executive Summary

1. Purpose

1.1 This report sets out the findings from the Joint Overview and Scrutiny Committee (JOSC) Working Group which was created as part of the JOSC Work Programme to review the effectiveness of Overview and Scrutiny Committees.

2. Recommendations

2.1 That JOSC consider the report and recommendations from the Effectiveness of Overview and Scrutiny Committees Working Group and refer the recommendations to the Adur and Worthing Joint Governance Committee and Councils for consideration in due course as appropriate.

3. Context

- 3.1 As part of its Work Programme for 2018 the JOSC agreed to set up a Working Group to review the effectiveness of the Overview and Scrutiny process to see if there were any areas in need of improvement.
- 3.2 The Working Group has reviewed the findings from the former House of Commons Communities and Local Government Select Committee (Now Housing, Communities and Local Government Select Committee) which reported to Parliament in December 2017 on the effectiveness of Local Authority Overview and Scrutiny Committees. The Working Group has also subsequently reviewed the revised Statutory Guidance published by the Ministry of Housing, Communities & Local Government (MHCLG) in May 2019 following on from the Select Committee report. Details of the Select Committee report and Statutory Guidance are set out in the Working Group report at the appendix to this report.
- 3.3 The Working Group has identified some recommendations which it considers can help improve the effectiveness of the Overview and Scrutiny process in Adur and Worthing.

4. Issues for consideration

- 4.1 JOSC is asked to consider the report and recommendations from the effectiveness of Overview and Scrutiny Committees Working Group, set out as the appendix to this report and refer those recommendations as appropriate to the Joint Governance Committee and the Councils for consideration in due course.

5. Engagement and Communication

- 5.1 The JOSC Chairmen and Vice-Chairmen have been consulted on this report.

6. Financial Implications

- 6.1 There are no direct financial implications relating to this report.

7. Legal Implications

- 7.1 Under Section 111 of the Local Government Act 1972, the Council has the power to do anything to facilitate or which is conducive or incidental to the

discharge of any of their functions.

- 7.2 Section 1 of the Localism Act 2011 provides a Local Authority to do anything that individuals generally may do (subject to any current restrictions or limitations prescribed in existing legislation).

Background Papers

Relevant papers as referenced in the Working Group report

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Sustainability & Risk Assessment

1. Economic

Matter considered and no direct issues identified.

2. Social

2.1 Social Value

Matter considered and no direct issues identified.

2.2 Equality Issues

Matter considered and no direct issues identified.

2.3 Community Safety Issues (Section 17)

Matter considered and no direct issues identified.

2.4 Human Rights Issues

Matter considered and no direct issues identified.

3. Environmental

Matter considered and no direct issues identified.

4. Governance

Matter considered. Recommendations from the JOSC Working Group will involve changes to the Constitutions and JOSC Procedure Rules if they are Implemented.

APPENDIX



ADUR & WORTHING
COUNCILS

Scrutiny review of the effectiveness of Overview and Scrutiny Committees

Report by the Joint Overview and Scrutiny Working Group

1.0 Summary

1.1 This report sets out the findings and recommendations from the Joint Overview and Scrutiny Working Group which was established as part of the Joint Overview and Scrutiny Committee (JOSC) Work Programme in 2018 to review the findings from the former House of Commons Communities and Local Government Select Committee (Now Housing, Communities and Local Government Select Committee) which reported to Parliament in December 2017 on the effectiveness of Local Authority Overview and Scrutiny Committees. This Working Group has also subsequently reviewed the revised Statutory Guidance published by the Ministry of Housing, Communities & Local Government (MHCLG) in May 2019 following on from the Select Committee report. The full report from the Select Committee is available here:-

[Effectiveness of Overview and Scrutiny](#)

1.2 The Working Group has been tasked to consider if there is a need for any new approaches/changes to be made to the Overview and Scrutiny procedures operated by the Councils to reflect the findings from the Select Committee inquiry and new Statutory Guidance and also to take the opportunity to assess if there is a need for any general additional changes to be made to the way that overview and scrutiny operates in Adur and Worthing.

2.0 Background and Context

House of Commons Communities and Local Government Select Committee review - Background

2.1 Overview and Scrutiny Committees were introduced by the Local Government Act 2000 and were tasked with acting as a check and balance mechanism to the increased centralised power of the Executives.

2.2 As part of its review, the House of Commons Select Committee undertook the first national assessment of Overview and Scrutiny in many years to consider how Scrutiny Committees operate. The report from the Select Committee looked at why scrutiny is important and the role it should play in Local Authorities. The terms of reference for the Select Committee were to review:-

- The ability of the Scrutiny function to hold decision makers to account;
- The impact of party politics on scrutiny; and
- Resources for the scrutiny function

2.3 The Select Committee found evidence that the scrutiny function is treated in many authorities as peripheral rather than an integral part of the Council's work. The report endorses the Centre for Public Scrutiny four principles of good scrutiny which are:-

- To provide a constructive 'critical friend' challenge;
- To amplify the voices and concerns of the public;
- To be led by independent people who take responsibility for their role; and
- To drive improvement in public services.

2.4 The Government responded to the Select Committee report [here](#) and made a commitment that it would produce revised Statutory Overview and Scrutiny Guidance for Local Authorities to enable some of the recommendations from the Select Committee to be implemented by Local Authorities but indicated that it believed that Councils were best placed to shape scrutiny arrangements to suit local needs.

2.5 The revised Statutory Guidance was finally published by MCHLG in May 2019 and details can be viewed [here](#)

3.0 Background and Methods to the JOSC Review

3.1 In 2018, as part of the JOSC Work Programme, JOSC agreed to set up a Working Group to review the findings from the Select Committee. Councillors Kevin Boram, Joss Loader, Bob Smytherman and Steven Waight were initially appointed to the Working Group. The Working Group met in March, August and September 2018 to consider information and formulate its recommendations. Councillor Joss Loader was appointed as Chairman of

the Working Group.

3.2 The Working Group discussed and agreed the following Terms of Reference and project objectives for the review:-

(a) To review the findings from the Communities and Local Government Select Committee report into the effectiveness of Local Authority Overview and Scrutiny Committees ; and

(b) To consider if there is a need for any new approaches/changes to Overview and Scrutiny to be introduced in Adur and Worthing to reflect any of the findings in the Select Committee report and if so to recommend the changes to the Joint Governance Committee, Joint Strategic Committee and Councils as appropriate.

3.3 The original Working Group considered the issues prior to the release of the revised Statutory Guidance and delayed on reporting findings to JOSC pending the release of the revised Guidance which, at the time, was expected during the Autumn 2018. Due to the delays by the Government in publishing this Guidance it was necessary for JOSC to review the membership of the Working Group during this period. Councillor Waight, who was no longer a member of JOSC, was replaced by Councillor Carl Walker.

3.4 This report now provides the detail of the discussions and findings from the Working Group, taking into consideration the revised Statutory Guidance issued and some recommendations which the Working Group considers will help enhance the effectiveness of the Overview and Scrutiny process if they are implemented. The Working Group considers that these can be implemented via amendments to the Constitutions of the Councils and changes to the JOSC Procedure Rules.

3.5 The Working Group previously met on 13 March, 2 August and 5 September 2018 and received an assessment of the practicalities of introducing any of the proposals put forward by the Select Committee in its report. The Working Group also met on 1 August 2019 and received an overview and analysis of the revised Statutory Guidance relating to overview and scrutiny and how Adur and Worthing currently measures up against the recommended good Practice and Statutory Guidance. A copy of the overview and analysis report provided to the Working Group is set out in Appendix A to this report.

4.0 Findings and Proposals

4.1 The Councils already have JOSC Procedure Rules which are included as part of the Constitution [here](#) and these were last revised in 2017 as part of a review undertaken by JOSC into ways of working. The way Overview and Scrutiny Committees operate is down to local discretion. The Working Group has discovered that the previous discussions on the Select Committee report and the new revised Statutory Guidance provides the Councils with an

opportunity to review the Scrutiny procedures and make changes as appropriate if considered necessary. Some of the changes recommended by this Working Group will require changes to the Procedure Rules which will require approval of both Councils.

4.2 **Revised Statutory Overview and Scrutiny Guidance**

4.3 The Working Group has been briefed on the revised Statutory Guidance and this identifies ways in which Local Authorities can improve the scrutiny function. The Statutory Guidance restates the four principles of effective overview and scrutiny which should:

- Provide constructive 'critical friend' challenge;
- Amplify the voices and concerns of the public;
- Be led by independent people who take responsibility for their role; and
- Drive improvement in public services.

4.4 The Guidance is comprehensive and includes chapters on the following:-

- Culture
- Resourcing
- Selecting Committee Members
- Power to access information
- Planning work;and
- Evidence sessions

4.5 Local Authorities 'must have regard' to the revised Statutory Guidance when exercising their Scrutiny functions. 'Must have regard' in this context does not mean that the sections of the Guidance have to be followed in every detail but that they should be followed unless there is a good reason not in a particular case.

4.6 The key messages in the Guidance are summarised below:-

4.6.1 **Culture** - The prevailing organisational culture, behaviours and attitudes of an authority will largely determine whether its scrutiny function succeeds or fails.

4.6.2 **Resourcing** - The resourcing that an authority allocates to the Scrutiny function will play a pivotal role in determining how successful that function is and, therefore, the value it can add to the work of the Authority.

4.6.3 **Selection of Committee Members** - The right people have to be selected to be on Committees and to hold the position of the Chairman. The Guidance gives the sense of the personal attributes that people in these positions will require. It recognises the political element of the selection of Chairmen and suggests that Local Authorities should consider taking a vote by Secret Ballot, although ultimately the method for selecting Chairmen is a matter for each Local Authority to decide.

- 4.6.4 **Power to access information** - A Scrutiny Committee needs access to relevant information the Authority holds and to receive it in good time if it is to do its job effectively. This Section of the Guidance emphasises the rights that Councillors have to access information and states that Councillors should have regular access to key sources of information which, collectively, will give them a sense of the management of the authority, with a particular focus on performance, finance and risk.
- 4.6.5 **Planning work** - Effective scrutiny should have a defined impact on the ground with the Scrutiny Committee making recommendations that will make a tangible difference to the work of the Authority. To have this kind of impact, Overview and Scrutiny Committees need to plan their work programme with arrangements in place for a co-ordinated approach.
- 4.6.6 **Evidence sessions** - Good preparation is a vital part of conducting effective evidence sessions. The role of the Chairman in managing the gathering of evidence is seen as especially important - as is the work of Councillors in pulling together focused and achievable recommendations.
- 4.7 As part of the original review process, the Working Group also sought the views of other Councillors to check on the effectiveness of the Overview and Scrutiny process. Two Councillors responded and the following additional suggestions were received:-
- In order to maximise the potential of scrutiny, could there be two Scrutiny Committees - one to concentrate on the internal workings of the Councils and one to review external matters of interest and maximise the potential of scrutiny to review what other agencies have undertaken.
 - There should be independent, effective training for scrutiny members. There should be a proper identified budget for this training, using organisations such as INLOGOV (Birmingham University). There should be visits to other Authorities that are "best practice" examples.
 - Can officer allocation be considered? If the scrutiny workload is considerable, officer time should reflect this (suggest may need two rather than one officer)
 - Agree that scrutiny should be given considerable weight by the Council. To this end, can scrutiny present a report of key issues, decisions and recommendations to Full Council.
 - Supportive of blind election of Chairman. Ideally, supportive of it being a member of the opposition.
 - I think that JOSCS sometimes gets involved in things that are not the responsibility of the councils. For example, re-visiting the court case when Southern Water were fined for direct discharges into the sea, or

the Southern Rail dispute. My belief is that they should concentrate entirely on the responsibilities and service delivery of Adur and Worthing Councils.

5.0 Conclusions

5.1 Having considered all of the issues, reviewed the current JOSC Procedure Rules and the new Statutory Guidance set against the current Scrutiny arrangements in Adur and Worthing, the Working Group would like to make some recommendations which it considers will make a difference to the effectiveness of Overview and Scrutiny at Adur and Worthing Councils.

These recommendations cover the following areas:-

- Ensuring early and regular engagement between the executive and scrutiny
- Managing disagreement and working with the Executives
- Power to access information
- Communicating Scrutiny's role
- Appointment of JOSC Chairmen
- Scrutiny of decisions before they are presented to the Executives
- Forward Plan of key decisions to be considered by JOSC.

5.2 **Ensuring early and regular engagement between the Executives and Scrutiny** - The Guidance states that Local Authorities should ensure that there should be early and regular discussion between Scrutiny and the Executives and that there should be discussion on Scrutiny's future Work Programme. The Working Group agrees with the Guidance and considers that some extra engagement is required with the Executives on the future Work Programme for JOSC.

Reason - To improve discussions about the JOSC Work Programme.

5.3 **Managing disagreement** - The Guidance also suggests that the Executives and Scrutiny need to work together to avoid the risk that the Executives will disagree with the findings or recommendations from Scrutiny. The Working Group supports the suggestion in the Guidance that an 'Executive/Scrutiny protocol could be developed.

Reason - To define and guide the relationship between the Executive/Scrutiny and Officers and mitigate any differences of opinion.

5.4 **Communicating Scrutiny's role to the public** - The Statutory Guidance suggests that Local Authorities should ensure Scrutiny has a profile in the

wider community and that consideration should be given to how and when to engage with the communications officers and other channels. The Working Group accepts that there are arrangements in place for JOSC to communicate proactively but considers that as part of the Communications Strategy as defined in the Procedure Rules (19.0 and 19.1) that the JOSC or JOSC Working Group should ensure that the communications required are fully defined at the outset and that communication is undertaken earlier in the process

Reason - To improve communication to the public;

- 5.5 **Selecting Committee Members (Selecting Chairmen)** - The Statutory Guidance suggests that a Scrutiny Committee must possess the requisite expertise, commitment and ability to act impartially to fulfil its functions. The Guidance also discusses the methods for appointing the Chairmen of the Scrutiny Committee and whilst it considers that the method for selecting a Chairman is for each Authority to decide for itself it considers that every Authority should consider taking a vote by secret ballot for the appointment of a Chairman. The Working Group supports the view set out in the Statutory Guidance and recommends that the Councils should amend the Constitutions to allow for a secret ballot for the appointment of the Chairmen of the Scrutiny Committees and that JOSC should also be given authority to appoint its Chairmen at the first JOSC meeting of the Municipal Year.

Reason - To help de-politicise the process of the appointment of the Scrutiny Committee Chairmen.

- 5.6 **Power to Access information** - This section of the Guidance covered the need for Scrutiny members to receive timely and accurate information in order to carry out their duties effectively. The Guidance considers that Scrutiny members should have access to a regularly available source of key information about the management of the authority. The Working Group is of the view that there should be no restrictions on scrutiny members' access to information rights and that the Councillors' rights and 'need to know' should be clarified in the Councils' constitutions and also in the JOSC Procedure Rules contained in the Constitutions.

Reason - To enable JOSC Members to access the information required to do their work and provide effective, transparent scrutiny.

- 5.7 **Other issues** - As part of its review, the Working Group also considered the following general issues relating to the scrutiny process which needed to

be improved. The Working Group considers that:-

- There is a need for the Scrutiny Committee to be enabled to scrutinise issues before they are presented to the Executives -

Reason - More pre scrutiny would be useful to help the Executives in formulating their decisions;

- That JOSOC should review the Forward Plan of Key decisions at each meeting as part of its ongoing Work Programme.

Reason - This will enable JOSOC to keep under review the proposed key decisions and request to scrutinise the issues as appropriate;

- That there should be a review of the Call-In procedures

Reason - Because there is a lack of Member awareness of the Call-In process which needs to be clarified to avoid confusion and improve the effectiveness of the Call-In process.

5.8 The Working Group has undertaken this scrutiny review and formulated conclusions and recommendations. The Working Group acknowledges that Scrutiny is key to democratic accountability and transparency and should be able to tackle, challenge, support, engage with and provide recommendations on the issues affecting residents and communities. The Working Group considers that there should continue to be an organisational culture in Adur and Worthing Councils which recognises constructive challenge and has common recognition of the value of scrutiny. By continuing to have effective Overview and Scrutiny practices and appropriate Governance procedures in place to control these practices, the Working Group believes that there will continue to be the strong challenge needed to hold the current Executives and future Executives to account.

5.9 In undertaking this review, the Working Group also has recognised and welcomed that over the last few years, the Chairmen and Members of the Adur and Worthing Joint Overview and Scrutiny Committee and the Councils continually review Overview and Scrutiny procedures to provide strengthened Overview and Scrutiny processes guided by stronger Overview and Scrutiny Procedure Rules which form part of the Councils' Constitutions. The Working Group is pleased by the overall way that the JOSOC undertakes its work e.g by holding in-depth inquiries into issues and by introducing stronger methods to engage the Adur and Worthing communities in its work.

5.10 However, having reviewed the current approach to Overview and Scrutiny and reviewed the Statutory Guidance, the Working Group believes that some changes (as set out above) should be made to the way that Overview and Scrutiny is undertaken in Adur and Worthing which will help to improve the overall process.

6.0 Recommendations (Reasoning explained above)

6.1 That the following recommendations as explained in detail in Section 5 of the report as set out above be endorsed and submitted to the Joint Governance Committee and Councils for approval to be included in the relevant sections of the Constitutions and the JOSC Procedure Rules as appropriate:-

- (1) That some extra early engagement is required with the Executives on the future Work Programme for JOSC;**
- (2) That an 'Executive/Scrutiny protocol' be developed to help define the relationship between the two and mitigate any differences of opinion in the scrutiny process;**
- (3) That to help communicate the scrutiny role to the public the communications required should be defined by Scrutiny Working Groups at an early stage in order to communicate the issues more effectively;**
- (4) That the Councils should amend the Constitutions to allow for a secret ballot for the appointment of the Chairmen of the Scrutiny Committees to help to de-politicise the process and that JOSC should also be given authority to appoint its Chairmen at the first JOSC meeting of the Municipal Year; ;**
- (5) That there should be no restrictions on scrutiny members' access to information rights and that the Councillors' rights and 'need to know' should be clarified in the Councils' constitutions and also in the JOSC Procedure Rules contained in the Constitutions;**
- (6) That JOSC be enabled to scrutinise issues before they are presented to the Executives because the pre scrutiny would be useful to help the Executives in formulating their decisions;**
- (7) That JOSC should review the Forward Plan of Key decisions at each meeting as part of its ongoing Work Programme to keep under review the proposed key decisions;**
- (8) That there should be a review of the Call-In procedures because of a lack of Member awareness of the Call-In process which needs to be clarified. It is suggested that the procedures could be reviewed using best practice examples from other Local Authorities.**

**Local Government Act 1972
Background Papers:**

None

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