

## **GOVERNANCE COMMITTEE**

**7 March 2018**

### **REPORT OF THE CROSS PARTY REVIEW OF OVERVIEW & SCRUTINY**

#### **SUMMARY**

At its meeting in June 2017, Council resolved to establish a cross party working group to review the Council's overview and scrutiny (O&S) arrangements. This report presents the findings of that review which proposes a series of recommendations which seek to alter the O&S governance regime within the Council.

#### **RECOMMENDATIONS**

That Governance Committee notes the findings of the cross party review.

#### **REPORT DETAIL**

#### **1. Background**

- 1.1 The concept of Overview & Scrutiny (O&S) originated in the Local Government Act 2000. It was intended as an essential part of the "checks and balances" to the introduction of strong executive governance model within local government, to provide oversight of an executive able to make almost all strategic, policy and service decisions. Subsequent legislation - most recently the current Government's Localism Act 2011 - has reinforced the role of O&S in holding the Executive to account. O&S also provides non-executive councillors with an opportunity to ensure that local people receive high quality services and with a robust overview of those services.
- 1.2 Havering initially adopted an O&S structure whereby individual committees took ownership for scrutinising specific areas of responsibility, operating their own requisition powers.
- 1.3 A Member-led review of O&S took place in 2013. The primary focus of the review was the O&S governance arrangements. The review identified that

various models for O&S had been developed across the country and that a “no one size fits all” approach existed. It identified that the majority of councils across London, and many nationally, had adopted a single, overarching O&S committee with sub-committees (known by a variety of names).

- 1.4 A single O&S Board was subsequently established in Havering which undertook all call-in functions and which acts as a vehicle by which the effectiveness of scrutiny is monitored and where work is undertaken by six themed sub-committees. That governance model has been in place since October 2014.

## **2. 2017 Cross Party review**

- 2.1 At its meeting in June 2017, Council resolved to establish a cross party working group to undertake a further review of the Council’s O&S arrangements. It was the intention that the review group would recommend changes which would effect from the May 2018 (following the local elections of that month).
- 2.2 The review group consisted of six members, one from each of the political groups on Council and was chaired by Councillor Michael White. It met on six separate occasions. The report author would like to place on record his thanks to the Members for their co-operation and assistance in delivering the review.
- 2.3 The review considered how effective the current operation was in delivering the aims of O&S and the value it added to the democratic process. In doing so, there was an in-depth look at how O&S had developed in Havering since its inception in 2002 and an assessment of how that compared against the Centre for Public Scrutiny’s four core principles of good scrutiny, which are:
  - To provide a ‘critical friend’ challenge to executive policy-makers and decision- makers.
  - To enable the voice and concerns of the public.
  - To be carried out by ‘independent minded governors’ who lead and own the scrutiny role.
  - To drive improvement in public service.
- 2.4 With those core principals as its guide the Review Group established that its objective was to formulate recommendations which would facilitate a consensual approach to O&S, with an emphasis on delivering outcomes and service improvements (pre, post and horizon methodology); overseen by Members with defined roles and responsibilities, and with the knowledge, skills and expertise to scrutinise and influence change.
- 2.5 In order to achieve this, the review undertook a number of tasks:

- Interviews were arranged with the current cohort of Chairmen and Vice-Chairmen of the O&S Board and sub-committees;
- It conducted a survey issued to all Members; of which 23 responses were received. An analysis of the responses received is attached at Appendix A. The survey findings were used to highlight areas for further consideration and those are reflected throughout the report;
- It reviewed the Communities and Local Government Committee report on the 'Effectiveness of local authority overview and scrutiny committees', published in November 2017;
- It undertook an analysis of the O&S governance structure of all 33 London boroughs; and
- Members of the Review Group also contributed with their own experiences of O&S during their time in Havering

### **3. Summary of findings**

3.1 Through the activities it had undertaken the review group identified a number of key issues which required more detailed attention. These were:

- The organisational culture and attitude towards O&S;
- Developing an O&S regime which focusses on delivery and monitoring of outcomes; including setting the O&S agenda and methods of delivery
- Clearly defined roles and responsibilities;
- Key skills required for O&S and a commitment to ongoing training and development for Members;
- O&S governance structure;
- Remuneration;
- Officer support.

## **4 Developing a positive organisational culture towards O&S**

4.1 The Review Group considered that the most significant factor in determining whether or not O&S is effective is the organisational culture of the council. Having a positive culture where it is universally recognised that O&S can play a productive part in decision-making process is vital.

4.2 As the CLG report on the effectiveness of local authority overview and scrutiny committees identifies. "Scrutiny needs to operate in an environment that welcomes constructive challenge and democratic accountability. When this does not happen and individuals seek to marginalise scrutiny, there is a risk of damaging the council's reputation, and missing opportunities to use scrutiny to improve service outcomes."

4.3 That headline message manifests itself within a number of key drivers which, going forward, should underpin the authority's approach to Overview & Scrutiny:

- Overview & Scrutiny is given a high status within the local authority.
- Ensure that Members take a clear lead in deciding the overview and scrutiny programme.
- Focus on policy considerations, and not let party loyalties overwhelm discussions.
- Be pro-active, and not only be about scrutinising decisions (pre-decision and horizon-focussed scrutiny)
- Communicate effectively and openly – with the executive and the public.

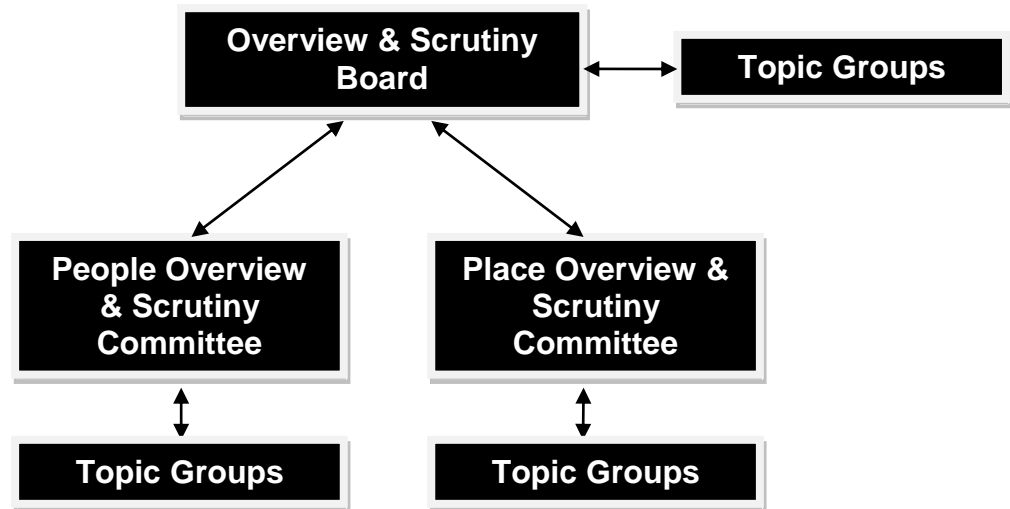
## **5. The O&S governance structure in Havering**

- 5.1 The structure by which O&S is governed was a topic of considerable debate for the review group with many contrasting views expressed as to the preferred model.
- 5.2 The review group noted that within the legislation, local authorities are free to determine how scrutiny will operate. By law, each local authority is required to have at least one Overview and Scrutiny Committee. It noted that across London and nationally there are a wide variety of different models in operation.
- 5.3. The models of O&S committees seen may be summarised into three broadly different approaches:
- i. A single Overview and Scrutiny Committee, with possible “task and finish” groups or ad-hoc subcommittees,
  - ii. Several standing committees with different competencies to consider different thematic policy and service areas,
  - iii. An Overview and Scrutiny Committee and one other specialised standing committee, (e.g. to consider health scrutiny).
- 5.4 Mindful of the outcome of the 2013 review, the review group sought the views of Members on the current O&S governance set up and requested suggestions on proposed revisions (set out in Appendix 1). The responses offered no conclusive support for a preferred model with a mixed response on the current O&S committee set up, particularly in respect of the O&S Board.
- 5.5. A recurring point of discussion amongst the review group was the capacity and expertise of Members to drive O&S and maintain the focus of it being Member-led. There was a sense amongst review group members that the current high number of O&S committees and its cycle of meetings (seven including the O&S Board), together with the requirement for political balance and formally scheduled meetings was a stark contrast to the freedom offered by topic groups (not constrained by political balance or formality of scheduled meeting dates).

- 5.6 The review group was therefore keen to strike the balance of finding a model which provides the maximum flexibility for the scrutiny function to undertake its work according to priorities whilst making the maximum impact, and one which allows it to schedule its inquiries around the different timescales for making an impact and the resources available to support the process.
- 5.7 The review concluded that the number of O&S committees should be reduced in order to free up Member capacity. It also considered that the committees needed to better reflect the departmental organisation of the Council and to demonstrate closer alignment with the Council's objectives around communities, places, connections and opportunities.
- 5.8 The reduction in sub-committees is offset by the increased role and anticipated workload that will be placed upon topic groups. The review group considered that topic groups are best suited to make the most effective contribution to service and other improvements. That is because it provides the time and resources to enable solid evidence to be gathered on which good recommendations are based.
- 5.9 The review group was particularly drawn to the freedom and flexibility that topic groups have in terms of membership (free of political balance constraints) and in terms of scope of operation. Topic Groups can consist of **in-depth reviews** where Council officers, officers from partner organisations and external witnesses are invited to provide evidence for a review and where members may visit and observe services where appropriate to see them in action and talk to service users. Alternatively, a topic group could be a **rapid review** where evidence is collected at one meeting and a brief report with recommendations produced for the next meeting of the parent O&S committee. It is anticipated that the Board and committees will each operate up to four topic groups per year.
- 5.10 It is proposed that the O&S Board, whilst not universally popular amongst Members, should be retained with greater emphasis placed upon it to drive the O&S agenda. It would also retain its status as the O&S body for considering all call-ins.
- 5.11 The review group is of the view that the number of seats on the O&S Board and O&S committees is a matter for consideration in May at Annual Council. The review group is mindful of the high number of committees operating across the Council and the numerous evening commitments attending meetings. It stresses the importance of Member capacity and resilience and therefore suggests that membership be limited to a manageable number, mindful however of the requirement to maintain political balance. The review group also noted that co-opted Members for education and crime and disorder matters are included.

5.12 The review group noted the comments of some Members that the Chairmen and Vice-Chairmen positions should be independent of the administration; this was considered a matter for Full Council when it appoints to such positions at Annual Council.

5.13 The review group therefore proposes the following O&S committee structure, along with their respective areas of responsibility:



| Overview and Scrutiny | Area of responsibility   |
|-----------------------|--|
| <b>Board</b>          | <ul style="list-style-type: none"><li>• Strategy and commissioning</li><li>• Local Strategic Partnership</li><li>• Partnerships with Business</li><li>• Customer access</li><li>• E-government and ICT</li><li>• Finance (although each committee is responsible for budget processes that affect its area of oversight)</li><li>• Human resources</li><li>• Asset Management</li><li>• Property resources</li><li>• Facilities Management</li><li>• Communications</li><li>• Legal &amp; Governance</li></ul> |

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|                 | <ul style="list-style-type: none"><li>• Councillor Call for Action</li><li>• Call-ins</li></ul>  |
| <b>People *</b> | <ul style="list-style-type: none"><li>• Pupil and Student Services (including the youth service)</li><li>• Children's Social Care</li><li>• Safeguarding Children</li><li>• Adult education</li><li>• Issues relating to the Children and Families Act 2014.</li><li>• Personalised services agenda</li><li>• Adult Social Care</li><li>• Diversity</li><li>• Scrutiny of NHS bodies including the Havering Clinical Commissioning Group, NHS trusts, NHS foundation trusts and other providers of NHS services within the borough or to residents of the borough</li><li>• To consider and provide recommendations on any proposed substantial development of the health service in the borough or any substantial variation of health services currently provided which are referred to it by the relevant health service commissioner or provider. (except any referral to Secretary of State, which is reserved to the Council by resolution)</li><li>• Councillor Call for Action</li></ul> |
| <b>Place **</b> | <ul style="list-style-type: none"><li>• Environment</li><li>• Local Development Framework and Strategic Transport</li><li>• Transport for London</li><li>• Environment</li><li>• Community safety</li><li>• Parking</li><li>• Regulatory Services</li><li>• Planning and Building Control</li><li>• Town centre strategy</li><li>• Licensing</li><li>• Leisure, arts, culture</li><li>• Housing Retained Services</li><li>• Community safety</li><li>• Social and economic regeneration</li><li>• Parks</li><li>• Exercise of the functions conferred by the Police &amp; Justice Act 2006</li><li>• Councillor Call for Action</li></ul>  |

\*- The People O&S Committee must include in its membership the following co-opted Members:

- (i) One Church of England diocese representative
  - (ii) One Roman Catholic diocese representative
  - (iii) Three parent governor representatives (elected by all governors in each of the three sectors of education)
- Each of these appointees has statutory rights to attend and vote at meetings of the People Overview & Scrutiny on **education matters only**.

\*\* - The Place Overview & Scrutiny Committee may include co-opted Members in accordance with the provisions of Regulation 3 of the Crime and Disorder (Overview and Scrutiny) Regulations 2009 and decide whether they should have voting rights.

## **6 Developing an O&S regime which focusses on outcomes and service improvements in addition to holding the Executive to account**

6.1 Through analysis of the O&S survey results and discussions with O&S Chairmen, considerable emphasis was placed upon the role of holding the Executive to account for its decision-making. Whilst recognising the importance attached to this element of O&S, it appeared that same emphasis wasn't attributed to the role of delivering service improvements and identifying targeted outcomes.

6.2 The review group aims to develop an overview and scrutiny regime which achieves a balance in delivering the following:

- Influences key decisions and policies before they are made (pre-decision scrutiny)
- Reviews key decisions after they are made (post-decision scrutiny and call-in)
- Reviews council policy, the way policies are implemented and their impact on local people and contributes to driving up performance and developing policy by investigating issues of concern and making recommendations (performance monitoring and policy development).

6.2 The proposals outlined in the change to the operation of the O&S governance aim to deliver that in part. The onus is then placed on the Board and committees to co-ordinate the development of annual work programmes. The development of those work programmes needs to be based on criteria which seeks to prioritise those issues which are affecting people who live or work in the borough, or which are strategically important to the authority; and which O&S could seek to influence by reviewing service provision and/or process to deliver improvements for service users.



- 6.3 The workload will be distributed between formal meetings of the committee and topic groups, which are required to keep the committee apprised of progress during its activity..
- 6.3 The review group recommends that the O&S Board and committees hold a meeting at the beginning of each municipal year dedicated solely to establishing the work programme for that year, based on a prioritisation flowchart set out in the 'Guide to Overview & Scrutiny' document which accompanies this report as Appendix 2.
- 6.4 In addition, through the Council's Continuous Improvement Model it is proposed that O&S recommendations proposed to either Cabinet or Full Council are monitored to assess the impact once implemented and to review whether any further changes are required. Again, the parent O&S committee responsible will undertake this role.

## **7 Remuneration**

- 7.1 At present, special responsibility allowances (SRAs) are awarded to the Chairman of O&S Board and its sub-committees. Given the proposed revision to the O&S governance structure and increased prominence and responsibility afforded to topic groups and the work undertaken outside of formal committee meetings, the review group recommends that the SRA award for O&S be reviewed at the Annual Council meeting in May when the committees of Council are appointed.

## **8 Clarity and mutual understanding of the roles and responsibilities for participants in O&S**

- 8.1 Identified as one of the four core principles of O&S by the Centre for Public Scrutiny, the Review Group recognises the importance of O&S being Member-led. It therefore places an emphasis on ensuring that there was sufficient clarity and mutual understanding of the roles and responsibilities placed upon those participants involved in the process, most prominent of whom are the scrutineers themselves.
- 8.2 All O&S members have an individual and collective responsibility to play an active part in O&S meetings by reading agenda papers, contributing to discussions, asking questions, suggesting lines of inquiry, assessing evidence, and producing recommendations. Overall the success or otherwise of O&S is intricately linked to the contribution made by each individual member who should take a proactive and equal part in O&S, in whatever capacity that might be.
- 8.3 The role of the O&S Chairmen (whether it be of the Board, committee or topic group) is critically important in setting the agenda and building solid relationships with Members, officers and other interested parties involved in

the O&S process. Greater emphasis should also be placed on the role of the Vice-Chairmen.

- 8.4 The review group identified a number of key tasks for which the chairmen are responsible and which increases the accountability for those individuals who undertake such roles. Those key tasks are identified in the Guide to Overview & Scrutiny (attached as Appendix 2).

## **9 Key skills required for O&S and a commitment to ongoing training and development for Members**

- 9.1 In emphasising the accountability afforded to Members in leading O&S, the review group considered it essential that Members have the necessary skills to fulfil their influencing role and deliver a positive impact for scrutiny. Whilst the review group noted the results of the survey in respect of training and development, nevertheless it believes that a renewed effort in ensuring positive outcomes and delivering change will likely require Members to work in new ways with a new set of skills.
- 9.2 As part of the Council's commitment to continuous training and development, it will facilitate sessions on developing questioning skills, analytical skills, team working, listening skills and chairing skills, which are all considered to be essential for driving O&S.
- 9.3 The review group recognised that the Council must continue to invest in order to equip new and experienced members with the skills, knowledge and expertise to undertake effective scrutiny and to contribute to the improvement and review of services

## **10 Production of a Overview & Scrutiny handbook**

- 10.1 Despite being a common feature in many local authorities, the review group noted that Havering has not produced a handbook which sets out its approach to O&S (other than in its Constitution).
- 10.2 The purpose of the handbook is to:
- Provide a brief overview of the Council's approach to O&S, including the legal framework and the O&S governance structure;
  - Provide a consistent approach to O&S across the Council, setting out best practice in terms of the setting, monitoring, managing and delivering of the O&S agenda
  - Outline the roles and responsibilities of those involved in O&S, with an emphasis on the importance of ongoing training and development and skills required to deliver meaningful outcomes.

- 10.3 In view of the changes proposed by the review group, it strongly recommends that the handbook (attached as ??) be adopted for Havering

## **11. Conclusions**

- 11.1 In summary, the review group concluded that O&S in Havering required adjustment as opposed to a fundamental overhaul. It recognised that nationally, many local authorities had experienced similar challenges in grappling with O&S and that it would continue to be a work in progress. It therefore also recommends that, subject to adoption of the proposals by Full Council, the Overview & Scrutiny Board review the implementation in May 2019.

- 11.2 A summary of the review group findings:

1. In order for O&S to be Member-led, there needed to be increased accountability for those involved in the process. Clarity and mutual understanding of the roles and responsibilities in respect of O&S was much needed.
2. There is insufficient focus on outcomes and delivering service improvements. O&S activities and methods of delivery needs to be revisited with guidance on best practice.
3. There was insufficient clarity on the rationale O&S and what it could / couldn't do
4. To be effective O&S needed to be consensual with party politics left at the door. O&S should more closely follow the Commons select-committee model
5. All too frequently the work of O&S is delivered by those Members who have the skills or expertise to drive the agenda. To that extent, the O&S governance structure (Board and six sub-committees) and the requirement for political balance is counter productive, with increased responsibility to be placed upon topic groups.
6. Increased emphasis on the continuous training and development is required to give Members the skills, knowledge and expertise to hold decision makers to account, influence policy formulation and drive service improvements.

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| <b>IMPLICATIONS AND RISKS</b> |
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**Financial implications and risks:**

Revisions will likely be required to the Member Special Responsibility Allowance Scheme if the proposals are approved by Full Council post-election.

**Legal implications and risks:**

Section 9F of the Local Government Act 2000 provides that executive arrangements by a local authority must include provision for the appointment by the authority of one or more committees to undertake the specified functions of overview & scrutiny.

Subject to the foregoing it is within the discretion of every authority as to how its Overview & Scrutiny arrangements are organised. The proposals in this report satisfy the legal requirements and there are no other immediate legal implications arising from this report.

**Human Resources implications and risks:**

Owing to a reduction in the number of committee meetings there will be a reduced impact on staffing resources. It is anticipated however that there will be increased overview and scrutiny activity as a consequence of the proposals with existing staffing resources reallocated to support that activity.

**Equalities implications and risks:**

There are no direct equalities implications and risks

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| <b>BACKGROUND PAPERS</b> |
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None