

SCRUTINY COMMISSION – 1ST JUNE 2020

Report of the Head of Strategic Support

ITEM 6 DISCUSSION PAPER - APPROACH TO SCRUTINY DURING COVID-19 PANDEMIC

Purpose of Report

To inform the Commission of the guidance produced by the Centre for Public Scrutiny (CfPS) supported by the Local Government Association (LGA) concerning the challenges associated with carrying out scrutiny during the Covid-19 pandemic.

Action Requested

That the Commission agrees a new way of working and associated structure for the delivery of the scrutiny function during the Covid-19 pandemic, and in doing so considers suspending the current cycle of Directorate-based Scrutiny Committee meetings for six months and considers deferring and re-starting Scrutiny Panel work (possibly with shifted scopes) once the crisis is over.

Reason

To focus Council resources on the Covid-19 pandemic.

Summary

Councils do not have the discretion to dispense with scrutiny as it forms a substantial part of the governance framework. Suspending scrutiny arrangements for a few weeks was initially necessary but this crisis will not be ending any time soon and so the council needs to set out an approach for scrutiny for the next six months.

The CfPS have produced helpful guides on governance and scrutiny during the pandemic. Whilst they strongly advocate continued, robust member-led scrutiny this should be proportionate and fit within the constrained resources that councils have at their disposal.

Furthermore, they are clear that the focus during this time should be on critical business “life and limb” matters for local people. Carrying on with a full complement of scrutiny meetings, and existing work programmes, is not an option.

Why Scrutinise?

Maintaining a form of scrutiny in the current crisis is important for several reasons:

- Substantial decisions will be being made which are likely to have an impact on the lives of residents and the places they live.
- The council and its partners should be trying to draw on the perspective of as broad as possible a range of people as it responds to the crisis;

- Councils are democratic institutions, which is why they are leading the local response – councillors have a vital role in feeding into and bolstering this response in the communities they serve, and the scrutiny function provides a mechanism for this work to feed into overall strategy.

Scrutiny Structure - Options

The CfPS recommends a single scrutiny committee, meeting for 60-90 minutes every three to four weeks.

At Charnwood this lends itself to two potential options:

1. Using the Scrutiny Commission with existing membership and monthly cycle of meetings or;
2. Using the membership of the Call-in Committee which includes all scrutiny committee chairs/vice-chairs as the single committee.

In the Constitution the Scrutiny Commission's roles include:

- 6.1(i) Setting, managing and controlling the scrutiny work programme and coordinating scrutiny generally

This therefore suggests that the Scrutiny Commission in its existing form could be diverted into a single scrutiny committee for the purposes of scrutinising the emergency response within its constitutional role.

If the Call-in Committee membership was used, this would require an expansion of its constitutional role which requires Council approval.

Either option means that the current cycle of Directorate-based Scrutiny Committee meetings for the next six months would need to be suspended with a review in due course.

A further consideration relates to the suspension of Special Responsibility Allowances (SRA's) for the Directorate-based scrutiny committee chairs and vice-chairs for six months. The views of the Commission are sought on this matter.

What to Scrutinise

Information that could be scrutinised is likely to include:

- Situation reports – prepared by the council (and individual departments) and by partners, covering various services;
- Action trackers – service by service, and corporately.
- Outreach – getting an understanding from the local community and from the councillors generally about the kind of issues and challenges that local people are experiencing;
- Support – understanding and supporting the council and its partners as they grapple with an unprecedented situation, providing assistance in understanding complex issues and in resolving associated problems.

- Oversight on critical issues. There will be particular services in the local area exposed to unique pressures as a result of the pandemic. Scrutiny can productively keep a watching brief on council and partner action on these matters.

Some of the information mentioned above does not necessarily need to be dealt with in a formal scrutiny committee meeting setting but provided through regular officer briefings – in writing and through remote video briefings. This could keep members up to speed on the operational and strategic response and could help members to better support their own residents.

Managing Agenda items

The CfPS recommends:

1. A single substantive agenda item for every meeting, with discussion being supported by a short covering report complemented by verbal updates from officers and other witnesses.
2. A clear outcome and objective for the discussion. Using the pre-meeting to agree outcomes beforehand by the Chair and others;
3. An expanded space for questions from the public, submitted in advance but as the situation develops and as confidence in remote tools increases, it might be possible to allow for a form of live questioning. It is unusual for scrutiny committees to allow for public questions as things stand, but making this facility available could be one way of assuring a form of public scrutiny given that other avenues will be closed off to local people;
4. An accompanying update report at each meeting, prepared by and presented by the chair, setting out:
 - Other matters of which they and the committee are aware and of which the committee are exerting a form of oversight but where it isn't proposed that the committee takes action at the moment;
 - Reflections on the council's, and partners', overall response on the issues where the committee is carrying out work based on community insight and general review of documentation – this could be used to agree a possible item for discussion at the next meeting. This provides a way to share publicly some of the discussions that committee members, and officers, may have had between meetings.

Points 1 and 2 can be adopted by Charnwood and to ease the burden on officer time writing reports, the scrutiny committee 'early doors' report template can be modified to support shorter reports supplemented by verbal updates at the meetings.

Point 3 is already undertaken at Charnwood as procedure 11.16 of the Constitution enables a councillor or resident of the Borough to ask the Chair a question about business of a scrutiny body. Notice of the question must be given by noon on the sixth working day before a meeting to be included on the agenda for that meeting. Charnwood does not have provision of 'live' questioning and should members wish to allow this then a change to the constitution would be required by full Council.

Managing 'live' questions in a virtual meeting setting may be problematical and may not be appropriate to adopt.

Point 4 about seeking views of the Committee regarding areas they might be aware of in their wards could be beneficial and could be managed by a verbal update item on the agenda rather than a report by the Chair.

Other Considerations:

Scrutiny, finance and the COVID-19 crisis

One of many emerging risks arising from the COVID-19 crisis is that of council finances.

This is not as immediate and high profile as the threat to human health and life but in the medium-term councillors must understand the scale of the problem as it affects their locality, and what steps can be taken to shore up and protect vital services.

This is likely to involve closer working with Audit Committees. In many councils, the link between scrutiny and audit is poorly defined. Information is rarely passed back and forth. Scrutiny makes little use of audit's forensic examination of the council's finances – audit makes little use of scrutiny's wider investigations into council services.

The CfPS recommends:

1. Conversation between the chair of audit and the chair of scrutiny to ensure that priorities are aligned and there is mutual awareness of the key challenges;
2. Developing a joint understanding on:
 - In-year financial monitoring. How are financial procedures being altered (in line with delegation) to meet local need? How are we sure that these arrangements are robust and subject to proper oversight from the s151 officer?
 - Budget management. How are individual budgets being managed, bearing in mind that they would have been set before the crisis began to unfold? How are virements between budgets – likely necessary at this time – being managed?
 - Risks and pressures associated with loss of income. Income from fees and charges, and from commercial activity, will have collapsed. Business rate and council tax collection is likely also to be impacted. What does this mean for the delivery of a balanced budget?
 - Overall risks and pressures. How has the changed financial landscape altered the corporate risk register? What action is being taken in consequence?

Scrutiny Panels

A timetable for Scrutiny Panels had been set and indeed the Commercialisation Scrutiny Panel was originally due to report back with its findings to the Scrutiny Commission in March 2020.

In line with the CfPS, it is suggested that all Scrutiny Panel work be deferred, and re-started (possibly with shifted scopes) once the crisis is over.

The Use of Call-In

Many Councils are using emergency or delegated powers to make decisions. Councils will also want to make decisions quickly. The schedule of key decisions may change at short notice. The nature of the pandemic means the frequent use of call-in powers is highly unlikely. The CfPS has stated that ‘councils will want to curtail its use where it is fairly regular occurrence (and councillors may wish to restrain themselves from its use voluntarily)’.

Charnwood’s Scrutiny Call-in Committee comprises the Chair and Vice-Chair of the Scrutiny Commission, and the Chairs and Vice-Chairs of each of the Directorate-based Scrutiny Committees.

Scrutiny reflection after the Pandemic

At some point in the coming months the restrictions will ease, and councils will begin the task of reflecting on the crisis and its consequences. Scrutiny can play a strong – perhaps leading – role in this debrief activity. For the moment, there is little that can be done to plan directly for this.

Background Papers: CfPS - COVID-19 support to councils Guide 2: Approaches to scrutiny during the crisis

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