

OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE

Committee Report

Public

Date of Meeting:

22 November 2001

**Title: POWERS OF THE OVERVIEW & SCRUTINY MANAGEMENT
COMMITTEE AND POLICY REVIEW**

Report of: CITY SOLICITOR AND SECRETARY

Report reference: TC.230/01

Summary:

This report has been prompted by questions, which were asked by Members at the last meeting of this Committee on the 25 October. The issues which were raised were as follows :

- Whether the Constitution may be amended to extend the functions of this Committee to include carrying out Policy Reviews, especially of a cross-cutting nature; or, alternatively,
- Whether the Committee in setting the Work Programme for the Overview and Scrutiny Committees may provide for cross-cutting Reviews to be carried out by one or more Committees, and for such Committees to have the power to co-opt Members of other Overview and Scrutiny Committees so as to bring to bear upon the Review a genuinely cross-cutting input and perspective.

This report sets out to answer these concerns and to show how the concerns of Members can be adequately addressed under the existing Constitution.

Recommendations:

(1) That the contents of this report be noted.

(2) That the proposed arrangements outlined in paragraphs 3.3 and 3.4 above be adopted by the Management Committee for the carrying out of Reviews which have cross-cutting or corporate implications.

1. INTRODUCTION

1.1 At the meeting of this Committee on the 25 October 2001 a report on the Work Programmes for the Overview and Scrutiny Committees received detailed consideration (Minute OSM.12/01). During discussion of that report Members considered the best way to approach the issue of Smart Cards which had corporate implications which cut across all departments within the Council. Members noted that the current Constitution does not allow for the Management Committee to conduct such reviews and queried whether the Constitution should be changed to accommodate this.

1.2 In response to these concerns the Head of Legal Services suggested that a genuinely cross-cutting flavour to such a Review may be achieved by co-opting Members from other Overview and Scrutiny Committees on to the particular Overview and Scrutiny Committee which had been charged with lead responsibility for carrying out the particular Review. He said that such co-opted Members would have speaking rights but would not have voting rights. This is in fact the same methodology which was agreed at the last meeting when the Committee accepted the working protocol for carrying out Best Value Reviews which had a cross-cutting theme.

2. BACKGROUND INFORMATION

The present Constitution, adopted by the Council on 11 September 2001, does not provide for the Overview and Scrutiny Management Committee to carry out individual Reviews. These provisions in the Constitution were framed following detailed consideration by the Local Government Reform Working Group of the various options which are available to the Council in discharging the Overview and Scrutiny function. Briefly, the options as set out in the Statutory Guidance allow for the Council to have one or more Overview and Scrutiny Committees and the Council may, if it considers it appropriate, provide for the business of the Overview and Scrutiny Committees to be managed by an Overview and Scrutiny Management Committee. The function of the Overview and Scrutiny Management Committee is to set out the work programme of the Overview and Scrutiny Committees, and not itself to carry out Reviews. In other words the main function of the Management Committee is to focus on approving the detailed work programmes of the various Overview and Scrutiny Committees and resolving any disputes between Committees where matters may fall within the remit of more than one Committee. The Local Government Reform Working Group considered that it would be appropriate in the Council for there to be 3 Overview and Scrutiny Committees and for their work programmes to be managed by an Overview and Scrutiny Management Committee. These proposals were accordingly written into the draft Constitution which was endorsed and adopted by the Council.

The Management Committee has no powers of call in and its Terms of Reference are set out in the Appendix attached for information.

3. IMPLICATIONS

3.1 Under the Constitution therefore, it is not possible for the Overview Scrutiny and Management Committee to carry out Policy Reviews. If the functions of the

Management Committee were to be enlarged to provide for this, it would be necessary for the Constitution to be amended and the Committee's Terms of Reference changed. The Constitution can only be amended by the full Council.

3.2 It appears, however, that the fundamental concern for Members is that the Overview and Scrutiny Review process should have the ability to achieve a genuinely cross-cutting perspective where this is appropriate. Some Members felt that this could be achieved by enlarging the functions of the Management Committee. It may be that those Members considered that the Terms of Reference for the Overview and Scrutiny Committees which matched various specific Portfolio areas precluded such Committees from carrying out genuinely cross-cutting Reviews. The perceived problem therefore appears to be that where a Review cuts across several Portfolio areas some of which fall outside the "jurisdiction" of a particular Overview and Scrutiny Committee, that Committee will not effectively be able to obtain input from the other Overview and Scrutiny Committees which have jurisdiction within that area.

3.3 To some extent, this problem has already been addressed in the Management Committees' Terms of Reference which recognise that matters may fall within the remit of more than one Committee and give the Management Committee power to determine which Committee should assume responsibility. The way in which the problem may be addressed under the terms of the existing Constitution is, as mentioned above, to follow by analogy the protocol adopted by the Management Committee for carrying out Best Value Reviews. Briefly, that protocol allows the Management Committee to scope Best Value Reviews including grouping of relevant services and identifying the key aspects to be focused on in the Review, and then to allocate the work to one of the Overview and Scrutiny Committees which would then carry out the detailed Review. Such Committee can co-opt Members of other Overview and Scrutiny Committees to obtain their views and to give breadth and dimension to corporate issues if this is felt to be necessary.

3.4 It is therefore suggested that, in respect of policy review areas, the Management Committee would allocate the work to one of the Overview and Scrutiny Committees, which would then carry out the detailed Review, and such Committee could then co-opt Members

of other Overview and Scrutiny Committees to obtain views from those Committees and give breadth and dimension to corporate and cross-cutting issues. Such Committee would then report its draft finding to the Management Committee who, if they are not satisfied with all the elements that have been completed can refer the Review back to the Overview and Scrutiny Committee. When the Management Committee is finally satisfied that the Review has been completed it will report it to the Executive for comments and to the full Council. It is perhaps worth noting that under the Constitution, in the event of an Overview and Scrutiny Committee not being able to agree on a single final report following a review, then up to one minority report may be prepared and submitted for consideration with the majority report.

3.5 The Council accepted that there would be a need after a reasonable working period to look at whether any amendments might be required to the Constitution. However, it is very early days yet in terms of forming conclusions about whether changes are necessary and, it is respectfully suggested that the above proposals should ensure that Policy Reviews are given sufficient cross-

cutting focus without the necessity of changing the existing Constitution prematurely.

4. RECOMMENDATION

It is recommended :

(1) That the contents of this report be noted.

(2) That the proposed arrangements outlined in paragraphs 3.3 and 3.4 above be adopted by the Management Committee for the carrying out of Reviews which have cross-cutting or corporate implications.

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EXTRACT

Overview and Scrutiny Procedure Rules

1. What will be the number and arrangements for overview and scrutiny committees?

- a) The Council will have the overview and scrutiny committees with the terms of reference and functions set out in Article 6 and whose scope is more particularly described in the Table to these Rules and will appoint to them as it considers appropriate from time to time. Such committees may appoint sub-committees. Overview and scrutiny committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.
- b) **Overview and Scrutiny Management Committee**
- The Council will have one overview and scrutiny management committee comprising of eight Members, politically balanced. The terms of reference of the overview and scrutiny management committee will be:
- (i) To approve an annual overview and scrutiny work programme, including the programme of any sub-committees it appoints, to ensure that there is efficient use of the committees' and sub-committees' time, and that the potential for duplication of effort is minimised.
 - (ii) Where matters fall within the remit of more than one overview and scrutiny committee or sub-committee, to determine which of them will assume responsibility for any particular issue, and to resolve any issues of dispute between overview and scrutiny committees.
 - (iii) To receive requests from the executive and/or the full Council for reports from overview and scrutiny committees and to allocate them if appropriate to one or more overview and scrutiny committees.
 - (iv) To put in place and maintain a system to ensure that referrals from overview and scrutiny to the executive, either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution.
 - (v) At the request of the executive, to make decisions about the priority of referrals made in the event of reports to the executive exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of executive business or jeopardises the efficient running of Council business.

2. Membership of overview and scrutiny committees

All councillors except members of the executive may be members of an overview and scrutiny committee. However, no member may be involved in scrutinising a decision which he/she has been directly involved. Each overview and scrutiny