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## SCRUTINY PROGRAMME BOARD

Thursday, 14 January 2010

<u>Present:</u>	Councillor	D Mitchell (Chair)	
	Councillors	C Meaden S Clarke J Keeley D Knowles	AER Jones H Smith A Bridson
<u>Deputies:</u>	Councillors	G Watt (In place of J Hale) A Taylor (In place of P Southwood)	

### 28 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST/PARTY WHIP

Members were asked to consider whether they had personal or prejudicial interests in connection with any item(s) on this agenda and, if so, to declare them and state what they were. Members were reminded that they should also declare, pursuant to paragraph 18 of the Overview and Scrutiny Procedure Rules, whether they were subject to a party whip in connection with any item(s) to be considered and, if so, to declare it and state the nature of the whipping arrangement.

Councillor A Jones declared his personal interest in agenda item 9 – Update on New Legislation (see minute 36 post) by virtue of him being a member of the Merseyside Police Authority.

### 29 MINUTES

**Resolved – That the minutes of the meeting held on 4 November 2009 be approved.**

### 30 REVIEW OF SCRUTINY PROGRAMME BOARD TERMS OF REFERENCE - ALLOCATION OF CALL-IN NOTICES

Further to minute 14 (14 September 2009), the Cabinet (minute 163 (15 October 2009) refers) considered the following proposed amendment to paragraph (iv) of the Scrutiny Programme Boards terms of reference (Call-in Notices) –

“(iv) the Chair and Party Spokespersons of the Scrutiny Programme Board shall consider call-in notices in relation to executive functions which fall within the terms of reference of more than one overview and scrutiny committee and allocate such notices to those committees affected by the decision.”

The Cabinet noted that the request was for a constitutional change, which needed to be referred to the Council. However, Cabinet recognised also that the original terms of reference were specifically agreed by the Council in order to reduce the need for multiple hearings on the same item and to allow the Scrutiny Programme Board itself

to hear call-ins which affected more than one Committee. As the original terms of reference did not preclude hearings by more than one Committee, where the Scrutiny Programme Board believed this was appropriate and the proposed revision to the terms of reference specifically removed the right of the Scrutiny Programme Board to hear call-ins affecting more than one Committee, the Cabinet believed this to be contrary to the Council's intent. It therefore recommended to the Council that the terms of reference should remain unchanged.

Cabinet minute 163 was approved by the Council on 2 November 2009 and an objection to the minute was not approved.

The Chair commented that at its meeting on 4 November 2009 (minute 22 (2) refers), the Board had requested clarification from the Director of Law, HR and Asset Management of the Terms of Reference in relation to the mechanism for the allocation of call-in notices. In response, the Head of Legal and Member Services proposed to circulate detailed written guidance.

**Resolved – That this matter be considered further at the next meeting of the Board, having regard to the information to be circulated to Members by the Director of Law, HR and Asset Management.**

## 31 MEMBERS TRAINING AND DEVELOPMENT

At its meeting held on 26 November 2009 (minute 202 refers), the Cabinet considered the recommendations of the Scrutiny Programme Board (Minute 26 (4 November 2009) refers) in relation to Members' Training and Development. The Cabinet –

- (i) thanked the Scrutiny Programme Board for its referral;
- (ii) noted that an initiative was already being taken by the Council's Chief Executive to progress issues around Members' Training and Development (including those around governance, training budgets and training providers) and that a meeting of the Chief Executive, Cabinet and Portfolio Holder for Corporate Services and the Members' Training Steering Group would shortly be held to discuss these issues; and
- (iii) requested that the Chief Executive report back to it on the outcomes of those discussions and to the Scrutiny Programme Board and the Employment and Appointments Committee at the earliest opportunity.

The Chair indicated that it had proved difficult to arrange a meeting owing to members' other commitments. However, arrangements had now been made and there was to be a meeting of the Member Training Steering Group on 8 February 2010. All of its members and the relevant Portfolio Holder had agreed to attend. Once the meeting had taken place, a further report would be made to the Scrutiny Programme Board on its proceedings and any outcomes.

**Resolved – That this be noted.**

## 32 **SUCCESSFUL SCRUTINY 2009**

The Director of Law, HR and Asset Management presented for information a copy of the Centre for Public Scrutiny (CfPS) publication "Successful Scrutiny 2009 – Outstanding Practice in Public Scrutiny". The CfPS highlighted examples of where scrutiny was working and where it promoted the value that non-executives had in helping shape the way public services were delivered. The examples contained within the publication were gathered from the Centre for Public Scrutiny's 2<sup>nd</sup> Good Scrutiny Awards, which were awarded at their 2009 Annual Conference. They provided a set of case studies where accountability arrangements had exemplified the CfPS principles of effective scrutiny. All demonstrated excellent and innovative practice and examples of what could be achieved and it was intended that they would offer encouragement to scrutiny practitioners and policy makers across the public sector.

Members commented upon the need for all Members of Overview and Scrutiny Committees to be actively involved in the scrutiny function and to lead community participation. In order to encourage public engagement, Members proposed the production of a scrutiny leaflet to seek the views of local residents upon what issues they wished to be the subject of scrutiny.

### **Resolved –**

- (1) That the Centre for Public Scrutiny publication "Successful Scrutiny 2009 – Outstanding Practice in Public Scrutiny" be noted.**
- (2) That the Director of Law, HR and Asset Management be requested to present a Scrutiny Leaflet for consideration at the next meeting of the Board.**

## 33 **ALCOHOL SCRUTINY REVIEW - PROGRESS REPORT**

The Chair presented a report of the Alcohol Scrutiny Panel Members upon progress of the Alcohol Scrutiny Review. He outlined the scope of the review, which would focus particularly on those issues that were within the direct responsibility of the Council. It was proposed that, due to the high profile and significance of excessive drinking among young people, the central focus of the review would be the "access to alcohol by young people in Wirral".

It was planned to complete the final report for the Alcohol Scrutiny Review before the end of the municipal year and the Chair outlined the specific issues to be addressed and the methods to be used for gathering evidence.

Members considered also a response they had received from a local resident to the Alcohol Scrutiny Review, which also offered some general observations on the issue of alcohol in the Bidston area of Birkenhead. A number of Members expressed their disagreement with a number of points in the letter, particularly what they perceived to be attacks on Council officers in relation to licensing of off-licences and test sales of alcohol to young people under the age of 18. Other Members questioned the objectivity of the response, as the respondent appeared to be promoting the issue for party political purposes.

**Resolved –**

- (1) That the Scope for the Alcohol Scrutiny Review, set out in Appendix 1 to the report now submitted, be endorsed.**
- (2) That the Panel Members be confirmed as Councillors Ann Bridson, Chris Meaden, Dave Mitchell and Sue Taylor.**
- (3) That the response to the Review be noted.**

**34 WORKING AS ONE COUNCIL**

The Chair commented that the issue of joined up working across Council Departments in order to avoid duplication had been identified by Members as part of the Scrutiny Work Programme. He sought the views of the Board as to how best to take the matter forward and whether it was preferable to commence scrutiny prior to, or following the local elections in May 2010. Members proposed that a Working Party be established and that it should initially consider the scope of the review. The views of the Working Party would then be considered at the next meeting of the Board.

**Resolved –**

- (1) That a Working Party comprising all Members of the Scrutiny Programme Board be established to consider the scope of a scrutiny review in relation to joined up working across the Council.**
- (2) That the officers be requested to arrange a meeting of the Working Party in advance of the next meeting of the Board.**

**35 COUNCILLOR CALL FOR ACTION - RECORD AND EVIDENCE TRAIL**

Further to minute 23 (4 November 2009), the Director of Law, HR and Asset Management reported that the draft protocol in respect of the 'Councillor's Call for Action' (CCfA) had been circulated to all Members of the Council and that no comments had been received. The protocol had been endorsed by the Cabinet (minute 237 (9 December 2009) refers) and recommended to the Council for adoption and inclusion at Part 5 of the Council's Constitution – Codes and Protocols.

The Director had also prepared a checklist of evidence to help Members in gathering information to assist any Councillor Calls for Action, which would also be presented to the Cabinet/Council for consideration, approval and adoption. A Member expressed the view that the process seemed too difficult in order to resolve a problem. In response, the Director indicated that the CCfA should only be taken as a last resort when all other avenues available to a Councillor to address a problem had failed. The checklist was intended to assist Members in evidencing those failures, in order to demonstrate to the Monitoring Officer that he or she had sought to address the issue through all existing means.

**Resolved – That the Record and Evidence Trail be endorsed, to be appended to the Councillor Call for Action protocol, and referred to the Cabinet/Council for consideration/approval and adoption.**

## 36 UPDATE ON NEW LEGISLATION

The Director of Law, HR and Asset Management provided an overview and outlined the main provisions of the following pieces of new legislation, which affected the way that scrutiny was to be approached now and in the future –

- The Local Government and Public Involvement in Health Act 2007, which came into effect on 1 April 2009;
- The Police and Justice Act 2006, which came into effect on 30 April 2009; and
- The Local Democracy, Economic Development and Construction Act 2009, which received Royal Assent on 12 November 2009.

He commented also that the Department of Health was reviewing Health Scrutiny and he referred to a consultation paper ‘Strengthening Local Democracy’, issued by the Department of Communities and Local Government, which explored whether local government had the powers it needed to meet today's challenges, as part of the Government's drive to renew Britain's democracy and build trust in the political system at all levels.

There were wide ranging proposals set out in the consultation document which, if implemented, could have far reaching implications for the future of local government. The paper stated that some of the changes proposed could be achieved rapidly but it also set the parameters for the debate over the next five to ten years. It also recognised that proposals in the paper would impose costs on local authorities and it stated that any net additional cost (taking into account any savings made as a result of implementing proposals) to local authorities would be fully and properly funded by the Department of Communities and Local Government. Members commented upon the value of a presentation to all Members of the Council of the impact of new legislation.

### **Resolved –**

- (1) That the progress of the legislation, that has or will affect the remit of Scrutiny, set out in the report now submitted, be noted.**
- (2) That the progress of the Department of Health's review of Health Scrutiny be noted.**
- (3) That a further report be presented to a future meeting of the Board upon the detail of the Department of Communities and Local Government's response to the consultation carried out following the publication of its consultation paper “Strengthening Local Democracy”, setting out the proposed next steps.**
- (4) That a presentation to Members on the impact of new legislation be undertaken as part of the Member Development training regime.**

## 37 THE FORWARD PLAN AND THE SCRUTINY FUNCTION

Further to minute 27 (4 November 2009), the Director of Law, HR and Asset Management provided an overview of the operation of the Forward Plan of Key Decisions, which was prepared by the Leader of the Council to cover a period of four months, beginning with the first day of any month. It was updated monthly on a rolling basis and it contained all of the Key Decisions of the Cabinet, a Committee of the Cabinet, individual Members of the Cabinet, officers, or under joint arrangements in the course of the discharge of Executive functions that were expected to be taken during that time. The Director set out the definition of a key decision and commented that, for the avoidance of doubt, any decision approving proposals for the making or amendment of a plan or budget which required the approval of the Council was regarded as a key decision.

At each meeting of the Scrutiny Programme Board, Members were invited to consider the Council's latest Forward Plan of Key Decisions published on the Internet and agree, in the light of the Overview and Scrutiny Work Programme, whether to scrutinise any of the items listed for decision that fell within their remit, bearing in mind timescales and the resources available. However, Members were of the opinion that the nature and scope of key decisions to be taken were not always clear or obvious. Consequently, Members were sometimes in doubt as to what exactly was to be determined until after the determination had actually been made. The Director confirmed that he would explore ways to improve the Forward Plan and report back to Members.

The Forward Plan enabled Scrutiny Members to scrutinise Key Decisions listed in the Forward Plan before they were taken, allowing them to hold the Cabinet and Chief Officers to account for the decisions they were about to take, and to ensure that the decision making was robust and based on a sound footing. However, pre-scrutiny may be viewed as a barrier that could delay policy, when deadlines were already tight.

The Director referred also to the General Exception and Special Urgency Rules contained within the Access to Information Procedure Rules and outlined the circumstances when an overview and scrutiny committee could require the Executive to present a report to the Council in relation to a key decision taken, which was not included on the Forward Plan or the subject of the general exception procedure or the subject of an agreement with a relevant Overview and Scrutiny Committee Chair, or the Chief Executive of the Council under Rule 15.

Members commented that a more informative narrative of the items contained within the Forward Plan would enable a better understanding of the decisions to be taken. In addition, more accurate timescales for decisions contained within the Plan would enable effective pre-scrutiny to be undertaken.

### **Resolved –**

- (1) That the report be noted.**
- (2) That, in order to make the Forward Plan more user-friendly and to assist the scrutiny function, the Cabinet be requested to agree to the following –**

- (a) That officers include within the Forward Plan a more informative narrative of the key decisions to be taken, together with more accurate timescales.
- (b) That, for a short trial period, Chief Officers be required to submit to the next appropriate Overview and Scrutiny Committee a brief explanation of new items included in the Forward Plan.

38 **WORK PROGRAMMES OF OVERVIEW AND SCRUTINY COMMITTEES**

Members received reports outlining the work programmes of the following overview and scrutiny committees, which included an indication of the way each scrutiny topic would be dealt with and timescales for the work to be completed. –

- (a) Children and Young People
- (b) Council Excellence
- (c) Economy and Regeneration
- (d) Health and Well Being
- (e) Sustainable Communities

**Resolved – That the reports be noted.**

39 **REVIEW OF SCRUTINY WORK PROGRAMME**

The Chair presented an updated Monitoring Report on the Committees Work Programme, in order to give Members the opportunity to review it and to ask for new items to be added.

**Resolved – That the report be noted.**

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