

GOVERNANCE REVIEW – OPTIONS FOR SCRUTINY

Introduction

1 As Members will be aware, over the past few months some themes have emerged through the review process. As Cllr Moore reported to Council on behalf of the Working Group earlier this month:

1. *Change is needed to improve the Council's governance in line with modern, current best practice. Focus is around attitude, behaviour, and approach rather than the fundamental structure of governance.*
2. *Implementation of Scrutiny (as a function) needs to be adapted to make engagement more active, potentially to provide earlier engagement in the decision-making process and when required to be an effective post-decision check.*
3. *Policy Development (as a function) needs to become more influential in the Council's business, taking a greater role in developing new ideas and challenge.*
4. *Combining the above 2 functions in specific committees should be considered.*
5. *Engagement by Members needs to be improved to make the Council's operation not only more effective but to be seen to be more effective.*
6. *Engagement with the residents and businesses needs to be improved through encouragement, better access (e.g. social media and other platforms) and communication (e.g. different focus / less jargon).*
7. *A systematic process approach should recognise the need for timely decision making, setting out clearly which parties are Responsible, Accountable, Consulted and Informed.*

Council resolved to support the conclusions in the report of Cllr Moore and gave authority to proceed on that basis. The remaining conclusions in his report should also be

- 2 Mid Devon, like many district councils, has a single Scrutiny Committee performing both the Overview and Scrutiny functions. It comprises 12 Members. Much of the policy development is carried out by the Policy Development Groups, but Scrutiny can, under the current arrangements, play its part in that. However, some districts have more than one Scrutiny Committee (usually two, but there's no rule about that) – but they do not have the policy development groups – instead choosing to embed that function more clearly within the Scrutiny Committees' remit.
- 3 Set out below are some preliminary thoughts about options and what they might look like – the intention is to start the debate i.e. I'm not recommending an outcome or structure, but placing something before you for you to discuss and to shape.

Options

- 4 Of course, one option always is to do nothing – it is an option, but I suggest not sustainable given the concerns that have been raised and the Council's resolution earlier this month. I'm sure Members will want their work to result in some real change to current arrangements.

Option 1

- 5 Option 1 is to continue with the current structural arrangements, but to look at the process and procedural rules to lend greater support and clarity to the Scrutiny function, including policy and pre-scrutiny. It is important to end up with a process which is clear and functional – with both Cabinet and Scrutiny support (if not always agreement!). In addition to any tweaks to the current procedural rules, a Scrutiny protocol could be development which might assist with the relationship/behaviours.
- 6 Whilst any committee can establish permanent or temporary sub-committees, in practice the tendency has been to go for working/task and finish groups – in effect, the outcome is the same, although working groups meet and carry out their work informally.
- 7 This Option 1 would not result in a significant amount of work and, therefore, nothing is put forward in this paper – any changes to procedural rules and a protocol could be considered by both Scrutiny and Cabinet, before asking the Standards Committee to make a recommendation to Full Council. Matters such as the allocation of seats (political balance) and Members' Allowances would not be changed as a consequence and there would be no budgetary implications – just some officer and meeting time.

Option 2

- 8 Option 2 involves more substantial change. Rightly or wrongly, there seems to be a feeling that perhaps the PDGs are not providing the added value that they were intended to bring. That is not a criticism of the members on the PDGs, their Chairs etc., but just a reflection that there were put in place as a means to involve more Members in the work of the Council and perhaps they have had their day i.e. Members want a different kind of involvement now and PDGs are not really fulfilling that aspiration.
- 9 So – why not scrap the PDGs and set up more than one Overview and Scrutiny (O&S) Committee? Potential advantages include a beefed-up overview and a more focussed scrutiny function. In terms of Member workload and depending on the final agreed structure, it would be possible to have an entirely different membership for each committee – some members currently sit on Scrutiny (monthly) and PDGs (every two months, plus special meetings). Further, some of the concerns around pre-scrutiny perhaps derive not only from lack of clarity about how it would work, but also the implication in terms of delay, duplication (where the PDGs have already been involved) and treading on Cabinet's responsibility for driving policy – as well as political concerns. As we know, Scrutiny should not be politically driven nor used to drive opposition – but it must be independent-minded in acting as Cabinet's critical friend and provide constructive feedback in holding the Cabinet to account.
- 10 The number of such committees is not prescribed, but effective co-ordination of the work must be considered. There are any number of ways this could be delivered and what follows are just a couple of suggestions for discussion. The key thing will be a clear

understanding of responsibilities, accountabilities, consultation and information (RACI) in such a structure, remembering that Cabinet will still have overall responsibility for policy direction and deciding what to recommend to Council. In any structure, there will be a need to manage potential tension and ensure that the roles are understood.

- 11 The starting point I am suggesting is 2 O&S Committees, but Members can consider whether that is sufficient.

Option 2A

2 x Overview and Scrutiny Committees (12 Members each) plus Programming Board to resolve overlap/duplication. 12 meetings a year for each.

Option 2B

As Option 2A, plus a Joint Overview and Scrutiny Committee (all Scrutiny members) meeting bi-annually or quarterly.

- 12 How could the work of the two committees be organised? Whilst one way is to allocate the work by topic area, that might become a challenge due to the inevitable overlap for some topics. An alternative would be to divide the work by focus e.g.

O&S1 – Corporate (or whatever name is given)

This Committee could focus in particular on the Council's policy framework (new and updates), as well as the budget, assets, resources and other corporate functions.

O&S2 - Community

This Committee could focus on the impact of the Council's operations on its customers, the community and Mid Devon as a place to live and work. Where, as a result of such work, policy changes are thought desirable, there would clearly need to be liaison with O&S1 to see how this might be taken forward.

There is still likely to be some degree of overlap at times and that is where either the Programming Board or a Joint Committee would need to step in.

- 13 What do other councils do? A snapshot of districts in the south-west & south midlands operating an executive structure with multiple scrutiny committees is shown in the table at Appendix 1.

- 14 How would it work in practice? I haven't wanted to spend too much timing re-drafting rules, procedures and protocols in advance of the Working Group indicating a preference or saying how they would prefer to recommend to Council. These can be prepared for the next meeting and would include:

- Draft revised Article 7 - Overview and Scrutiny
- Draft revised Overview and Scrutiny Procedure Rules
- Draft Protocol for Cabinet & Scrutiny

It would be helpful if the Working Group could indicate matters of interest/concern that might need to be reflected in these documents – although they could also do so after the meeting.

Implications, incidentals and other issues

15 Thought must be given to the following:

- Calendar of Meetings – what feeds into what in a timely and workable manner
- Members Allowances – 4 PDG chairs receive special responsibility allowances of c. £3760 each. The Scrutiny Chairman receives approx. £6265. The Independent Remuneration Panel would need to meet again and recommend to Council a new scheme.
- Budget – IF the PDGs are removed from the structure and two O&S Committees created and IF the Chairs of the O&S Committees received a SRA similar to the present, this would result in a saving to the Council. If/when meetings return to being held in person (date unknown), it is anticipated that a structure of 2 O&S Committees of (say) 12 members each meeting 12 times a year could also result in a small saving to the travel and subsistence budget – 24 meetings (plus perhaps the quarterly joint committee if desired, whereas 4 PDGs of 9 members typically meet 6 times a year and sometimes more = at least 36 meetings.
- Agreeing the allocation of seats (political balance)
- Ensuring there are opportunities for Members to be involved – timing of meetings, work commitments, caring responsibilities etc.
- Other opportunities for a re-think. For example, Audit Committee is not part of the scrutiny function, but there does seem to be an imbalance in terms of membership – only 7 on Audit and 12 on Scrutiny. I have assumed Scrutiny would continue with the current 12 members per committee, but it doesn't have to. The advantage of doing so is that it opens up the opportunities to the wider membership to get involved in this area. The precise numbers can be settled when you have a structure you wish to recommend, but I do think that Audit could do with an increase in numbers. So you could have O&S – 12 X 2 and Audit up to, say, 9? Or you could have 11 members on each, resulting in 33 opportunities across these committees, as well as Planning, Licensing (and Regulatory) and Standards.
- Timing – depending on what is recommended to, and agreed by Council, there may need to be a short period before the new structure is brought in. Some further work may be needed on the constitutional side as well as the matters above. We also do not know yet whether the elections will take place in May (current plan), June or later. Assuming the AGM of the Council goes ahead (remotely or otherwise) in May, this may be before the elections. However, I cannot see any reason why, if the documentation is ready, the new structure should be held back pending the elections.

Next steps

- 16 If the Working Group reaches an agreement in principle on how it wishes to make progress with developing recommendations on the Scrutiny function, they may wish also to indicate any further steps to take between the January and February meetings. As mentioned above, some documents can be brought to the next meeting for review, including a draft report of the Working Group.
- 17 Members may wish to indicate what further conversations need to take place. However, my thinking at the moment was this – that the report of the Working Group is considered by Council on 17th March 2021. If the recommendations on structure are agreed, Council could direct that the governance documents are formally reviewed by the Standards Committee and all members encouraged to feed into that.

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