

## Overview and Scrutiny Performance Board

Thursday, 23 March 2017, County Hall, Worcester - 10.00 am

|                         |  | <b>Minutes</b>  |
|-------------------------|--|---|
| <b>Present:</b>         |  | Mr R M Udall (Chairman), Mr A T Amos, Mr C J Bloore, Mr P A Tuthill and Mr T A L Wells  |
| <b>Also attended:</b>   |  | Mr A P Miller<br>Mrs E B Tucker<br><br>Simon Mallinson (Head of Legal and Democratic Services) and Alyson Grice (Overview and Scrutiny Officer)   |
| <b>Available Papers</b> |  | The members had before them:<br><br>A. The Agenda papers (previously circulated);<br>B. The Minutes of the Meetings held on 18 and 26 January 2017 (previously circulated).<br><br>A copy of document A will be attached to the signed Minutes.   |
| <b>971</b>              | <b>Apologies and Welcome</b>                               | Apologies were received from Ms L R Duffy, Mrs E A Eyre and Mr C B Taylor.  |
| <b>972</b>              | <b>Declaration of Interest and of any Party Whip</b>       | None.   |
| <b>973</b>              | <b>Public Participation</b>                                | None.   |
| <b>974</b>              | <b>Confirmation of the Minutes of the Previous Meeting</b> | The Minutes of the Meetings held on 18 and 26 January 2017 were agreed as a correct record and signed by the Chairman.  |
| <b>975</b>              | <b>Council Working Group - Update</b>                      | The Chairman of the Council, Councillor A P Miller, attended for this item. He had been invited to the meeting to update the OSPB on the work of the cross-party Council Working Group (CWG) and its emerging findings.<br><br>By way of introduction, he reminded Members that all information considered by the CWG was available for all |

Councillors to view as the CWG had worked in an open and transparent way. The aim of the CWG was to see whether the way Council currently operated could be improved.

Members were given an opportunity to discuss the CWG's emerging findings and, in the course of the discussion, the following main points were made:

- The Chairman of the Board asked about the potential recommendation that Cabinet Member reports should first be considered by OSPB and only passed to Council if Board Members had concerns. The Chairman of the Council reminded Members that the CWG was not able to make any decisions but would make recommendations that would need to be agreed by full Council. The suggestions made in the agenda report were from the whole working group.
- The Chairman of OSPB went on to request further clarification on how OSPB Members would channel their concerns about CMR reports and whether this would be through Cabinet or Council. The Head of Legal and Democratic Services informed the Board that there had been a fair degree of consensus in the Working Group that consideration of Cabinet Member reports was better placed with Scrutiny rather than full Council, with Scrutiny having the power to refer to Council by exception. The Chairman of the Board told Members that he felt that Scrutiny should have the power to refer any concerns direct to Council.
- A Member of the Board thanked the Chairman for his work on the CWG. He went on to suggest that the consideration of CMR reports at Council was sterile and did not allow Members to get to the issues that mattered most. He felt that Scrutiny had an important role to play and wholeheartedly supported the proposal that Cabinet Member reports should be considered by Scrutiny. As to whether this should be done by OSPB or the Overview and Scrutiny Panels, the jury was out. Personally, he felt that it may be most effective for the reports to be considered by OSPB with relevant Panel Members invited to attend.
- The Member said he was often embarrassed by full Council meetings and the performance of Members and their treatment of officers. In particular, he referred to the treatment of the Chief Executive at the last meeting. It should be for Councillors to regulate Council meetings, not

officers. There would be an opportunity as part of the induction process following the May elections to start again and remind Members that they were ultimately responsible for their own conduct. He questioned what was achieved at full Council meetings and suggested that there should be more meetings spread throughout the year. Personally, he was not comfortable with time limits for discussion of Notices of Motion. The prime functions for most elected Members were Scrutiny and full Council.

- The Chairman of the Council informed Members that the CWG had received a response to the proposals from the 2013 Group which had included many of these points and would be considered at the CWG's next meeting. Responses had been received from 2 Groups so far and it was hoped further responses would be received from all political groups. It would then be for the new Council to decide on the recommendations.
- A Board Member agreed that bringing CMR reports to OSPB was an interesting idea and would provide an opportunity for a serious and thorough consideration, something that was not possible in a full Council meeting, where the purpose of the report was often lost. He suggested that the same should be true of the Chief Executive's annual report. He regretted that this had become necessary as there had been a clear rationale for taking the reports to Council. He suggested that Members needed to exercise self-control and agreed that recent meetings had been embarrassing. He had also heard comments from Members of the public who had attended Council and they were not flattering.
- The Member went on to suggest that the Chairman of Council should be given powers not to call a Member to speak if they were being unruly. He was concerned that, by sending CMR and Chief Executive reports to Scrutiny rather than full Council, the Council would be changing procedures but not addressing the problem. He felt that, as time for questions was already limited, this should also be the case for Notices of Motion. He also suggested that Notices of Motion should be disciplined and not designed to obtain maximum column inches in local newspapers, especially where the County Council did not have specific responsibility for the matter being discussed. Full Council was being abused and

Members had not done themselves any favours.

- The Head of Legal and Democratic Services confirmed that there was a formal process that Council could follow for a Member to be 'named' if they were felt to be misbehaving. This would not be the Chairman's decision but would be put to full Council if the Chairman agreed. If Council decided to 'name' that person, they would no longer be called to speak. If the poor behaviour continued, Council could vote to have that person physically removed. There were also informal methods of discipline which the Chairman used to control business. The Chairman did not have the express power to simply not call a Member to speak.
- It was suggested that by the time the meeting had got to 4 or 5pm, Council was no longer doing anything useful and this undermined the reputation of the Council.
- Another Board Member informed Members that, following the last Council meeting, he had reflected on how the meeting had been of benefit to the people he represented and he concluded that this was very little. He agreed that questions should relate to the business of the Council and there should be less political grandstanding. It was clear that a great deal of work went into Cabinet Member reports and they included much interesting content. Council did not allow for a full discussion of the reports and it was suggested that a mechanism could be devised whereby the reports came to OSPB to identify the key points for Council in preparation for a more sensible discussion. It was important that the Cabinet Member also attended OSPB for the discussion.
- A Board Member informed OSPB that he disagreed with the suggestion that Members should be readily 'named' as this set a very dangerous precedent. He suggested that Members were deluding themselves if they thought that all of the problems of Council were down to questions and Notices of Motion. He suggested that, in recent years, there had been some poor Chairmen and Vice-Chairmen who were not up to the job. At the same time people who had years of service and experience were rejected, just because they were not from the majority group. He referred to a recent incident where a Labour Member was stopped from speaking before the end of his allotted time, whereas a Conservative Member was allowed to

speak for 6 minutes over. The Cabinet system was highly centralised and he suggested that there had been an opportunity to make the Council more inclusive by reviewing the Cabinet system, but this opportunity had been rejected. He went on to suggest that very few questions or Notices of Motion came from back bench Conservative Councillors and some did not contribute at all to meetings of full Council.

- The Board Member went on to make the point that, for back-bench Councillors, asking a question on a local issue at Council which may result in a report in a local newspaper, was one way to communicate with local residents. He suggested that Notices of Motion were very important and deserved the time that they were given. If the Council was serious about change, it should look at the fundamentals and allow the Chairman and Vice-Chairman to be selected from Members who were not part of the majority group. This would be easy to do and might work to bring the groups together and encourage working across party lines.
- The Chairman of OSPB reminded Members that the County Council was the chief forum of the County and enabled people to put forward issues, whatever their political background. He was frustrated by the time limit on questions and would be nervous about putting similar restrictions on Notices of Motion. It may be better to provide further guidance rather than restriction, with possibly written questions and answers for Question Time. He agreed that the Council needed to find a better way of appointing the Chairman and Vice Chairman.

A Councillor who was not a Member of the OSPB was invited to comment. She informed that Board of her anger at the cross-party CWG's proposals. She believed that the original intention of the Notice of Motion had been distorted. It had also been about enabling the role of every Councillor and this had been ignored. Six of the proposed recommendations would further reduce the already minor powers of the back-benchers. The whole organisation was currently focused on Cabinet and on supporting Cabinet Members. The number of people who could become involved in Scrutiny was limited due to the rules on political balance. Bringing Cabinet Member reports to Scrutiny rather than full Council would not enhance the role of the back-bencher. Rather, it would reduce the already narrow ability of the ordinary

Member to play a part in the life of the Council. The Council should be in the ownership of all Councillors and the agenda should be set by a cross-party group rather than by the controlling group. There were lots of skilled people who wished to take part but who were systematically left out by the current system. She reiterated that she was deeply disappointed by the lack of regard for Councillors other than those in appointed roles.

In response, the Chairman of the Council reminded Members that the CWG had been formed by a consensus of the Council and he had volunteered to chair the group because, as Chairman of the Council, he was not a political figure. The aim of the group was to look at how Members conducted themselves and how things could be improved. Every Member had had an opportunity to be involved. The CWG had brought things to a point where Councillors could examine themselves and move forward.

The Chairman of the OSPB made the following points:

- There was support for Cabinet Member and Chief Executive reports to come to OSPB with the Board raising any concerns with Council. If this was to work it would also require participation from Councillors who were not Members of OSPB.
- Personally he would be uncomfortable with time limits for Notices of Motion and questions to Council.
- He would support written questions to Council, which should be unlimited and answers published on the day of Council.
- He would support continuing to follow current standing orders rather than allowing the Chairman to have the power not to call a Member to speak.
- The offices of Chairman and Vice-Chairman and how appointments are made should be considered further.

Members were given a further opportunity to contribute and the following main points were made:

- Members were reminded that, in other local authorities, the Chairman did not always come from the controlling group. In relation to Overview and Scrutiny, it was suggested that the controlling group had done well as they could have decided to appoint a Chairman of OSPB from their own group. The current system meant that, other than

those Members who were on Cabinet, even Members of the controlling group had a small role to play and they felt constrained. Further support was expressed for a cross-party Chairman.

- The Chairman of the OSPB referred members to Telford and Wrekin Council who had split the job of Chairman into two elements – a civic head and a Speaker of Council. If this were done in Worcestershire, it was suggested that one of the roles could be from a different political party.
- It was suggested that the Council could look at how business was organised in the House of Commons where curtailments were used simply to get through the business. Further, it was suggested that the timing of the report was not good as it would be finalised before the end of the current Council but it would be for the new Council to agree the action and take matters forward. The Head of Legal and Democratic Services confirmed that it was anticipated the report would be completed during the current Council ahead of decisions being made by the new Council.
- It was suggested that the discussion was missing the entire point of the working group which was to empower Councillors. Currently, the only way the majority of Councillors could have power was via the press. All power was in the hands of the 9 Members who sat on Cabinet. There was a need to empower those talented Members with knowledge and experience to allow them to become involved in decision-making.
- Further concern was expressed that not one proposal from the working group enhanced the power of Councillors and most appeared to further limit it.
- It was suggested that it may be helpful to give the new Council a few months to settle before deciding on the CWG's report. It was confirmed that this would be viable and there was no requirement for a decision to be made at May Council. However, it was suggested that delaying the decision might create a vacuum. It may be best for the working group itself to re-consider the timing of implementation. There should be consensus across the political groups on this.
- With reference to the appointment of the Council Chairman, it was suggested that this could be something for OSPB to consider in future. The current Chairman of Council indicated that he would be happy to attend OSPB and give his views.

**976 Overview and Scrutiny Work Programme 2016/17: Update**

On behalf of the Board, the Chairman thanked Councillor Miller for his attendance and for his year as Chairman of the Council.

The Overview and Scrutiny Performance Board was asked to:

- Note progress to date on the 2016/17 Scrutiny work programme; and
- Consider the issues not completed from the 2016/17 work programme, including those recommended by the 2017/18 Budget Scrutiny Task Group and those suggested at previous meetings of OSPB, and agree which issues it would wish to recommend should be carried forward to the 2017/18 work programme following the County Council elections in May.

The Chairman introduced the agenda item by suggesting that the report (including Appendix 1) be forwarded to the first meeting of the new OSPB following the May elections. He felt there should be a strong recommendation that the new OSPB should take up the initiatives highlighted by the Budget Scrutiny Task Group and other issues which had not been completed in 2016/17.

(At this point, the Chairman thanked Councillor Wells for chairing the Scrutiny workshop in February when he had been unable to attend.)

Members were given the opportunity to comment and the following main points were made:

- It was disappointing that there were still outstanding issues from the current year, given that it was always clear when work would need to be completed. It would be good to empower Panels to establish their own task and finish groups but the resources available within each Panel – in terms of experience and knowledge - needed to be considered. Task and finish groups had to have the buy-in of the executive side, both political and from senior officers, as there were also resource issues there.
- The Chairman agreed that Scrutiny could be frustrated by the Executive as had been the case in his first 2½ years as Chairman. He felt that the last couple of years had been easier and Scrutiny was now pushing at a more open door. Whoever



took on the role of Chairman of OSPB would have to have a good working relationship with the Leader of the Council. As Chairman he felt he could do anything except things that the majority group did not want him to do.

- Concern was expressed that Scrutiny meetings often resulted in too many recommendations for the Cabinet Member which became lost in the minutes. It was suggested that three key recommendations should be distilled from the discussion.
- Concern was expressed about the level of resources allocated to Scrutiny and reference was made to a previous experience of a task group not being able to start for several months due to a lack of staff resources. The Council needed to back Scrutiny with sufficient staff resources and time.

It was agreed that the work programme update on issues still to be completed should be passed to the new OSPB for consideration with a recommendation that more task and finish groups should be established.

Members were reminded that OSPB controlled how many task and finish groups were set up. The Chairman informed Members that he would like OSPB to continue to manage the process. Panels would be able to make recommendations to OSPB, but OSPB should decide whether the issue was a priority. Although it was agreed that Scrutiny business should be managed by OSPB, it was suggested that other Members of the Council should not be excluded simply because they were not a Panel Member. The Chairman agreed that membership of all task and finish groups should be open to all Members of the Council (except Cabinet Members) which is the current position.

Whilst agreeing that the responsibility for agreeing task and finish groups should rest with OSPB, there should be a mechanism for urgent issues to be taken forward. It was suggested that this could happen by delegation to the Chairman and Vice-Chairman of the Board.

**977 Member Update  
and Cabinet  
Forward Plan**

Adult Care and Well-Being O&S Panel

The Chairman of the Panel reported on a recent Panel meeting and reminded the Board that issues relating to

adult care had risen to the top of the national political agenda, making it clear that the situation in Worcestershire was no different to the rest of the UK. Following the elections, Scrutiny may wish to take an early opportunity to stand back and look at what was really happening. He suggested that sometimes the rhetoric obscured what was being said. It would be important to find a way of removing the veneer. For example, 'empowering people' may be a euphemism for stopping a service user from going into residential accommodation and making them care for themselves for longer.

#### Economy and Environment O&S Panel

The Chairman of the Panel reported that further discussions on Abbey Bridge, Evesham had been delayed due to legal reasons. The Panel had held a useful meeting on LTP4 and was due to hold an informal meeting next week on broadband and its cost effectiveness.

#### Cabinet Forward Plan

The Head of Legal and Democratic Services confirmed that the 6 April Cabinet meeting would go ahead as planned to consider an update on the Children's Social Care Service Improvement Plan and a resources/finance report.

#### Member Induction and Training

It was agreed that Member training following the elections should include a general session for all Members to gain an awareness of Scrutiny and a second session focussing on chairing skills for Chairmen and Vice-Chairmen.

The Chairman closed the meeting and reminded Members that this concluded the work of the OSPB for the four years of this Council. He thanked the Scrutiny Officers for their support throughout this time.

The meeting ended at 11.23 am

Chairman .....