

OVERVIEW AND SCRUTINY BOARD

21 SEPTEMBER 2004

DRAFT REPORT ON INCLUSION OF NON-EXECUTIVE MEMBERS

PURPOSE OF THE REPORT

- 1 This report is an analysis of the opportunities for non-executive members to take an active part in the work of Middlesbrough Council and includes some suggestions for extending those opportunities.

COMMISSIONING AND METHODOLOGY

- 2 The Mayor recently asked me, as Chair of the Overview and Scrutiny Board, to investigate the degree of inclusion of non-executive members of the Council and to suggest any further measures that might be beneficial in promoting non-executive member involvement. The Overview and Scrutiny Board agreed to undertake the review at its meeting on 24 August 2004.
- 3 A questionnaire (Appendix 1) was distributed to all members, giving an opportunity to assess the ways in which members can be involved, and inviting ideas for improvement. Twelve members responded (a 25% response rate), though not all members replied to every question. A summary of responses is included as Appendix 2. In addition to the questionnaire, there have been a number of verbal comments received from a range of elected members.
- 4 The relatively low response rate and the incompleteness of some responses mean that the questionnaire cannot be relied on as an accurate assessment of member opinion. However, it might be argued that it does give a flavour of some members' views, and, in particular, the comments provide an insight into how those members who feel strongly on this issue are thinking.

POLITICAL AND LEGISLATIVE BACKGROUND

- 5 Prior to the late 1990s, decision making in local authorities operated through a committee system: all councillors were members of at least one service committee and were able to contribute to discussions on all decisions and, on occasion, to influence the final outcome. All committee decisions were reported to the full Council meeting and, again, all members had an opportunity to move approval, rejection or amendment of any committee decision.

- 6 It has been argued that the committee system was open and democratic – more so than the current situation. On the other hand, committee chairs more often than not dominated their committees, while the party groups dominated the Council meeting, giving only limited opportunities for individual members to make a significant impact. At the same time, the system lacked transparency and was a slow and cumbersome means of decision-making.
- 7 The Local Government Act 2000 introduced changes designed to improve the efficiency of decision-making and to enhance openness and transparency. A feature of all options (for all but the smallest authorities) was the creation of an executive group of councillors, responsible for decisions, while non-executive councillors were expected to concentrate on their representative role and on scrutinising the executive.
- 8 In Middlesbrough, after a ‘pilot’ period of operation with a Cabinet system, a referendum confirmed the proposal to introduce a directly-elected Mayor, who took office in May 2002.
- 9 It is generally agreed by most, if not all, members that, in terms of efficiency, openness and transparency, the move to an executive system has been successful. In particular, since the election of a Mayor, there has been clear leadership and direction for the Council.
- 10 However, both before and after the introduction of the mayoral model, many non-executive members, particularly those with experience of the committee system, have complained of feeling marginalised from the principal activities of the Council. This is especially so in relation to the decision-making roles now exercised by the Mayor and Executive, but also extends to other roles of elected members. The next section of the report tries to identify how this occurs and explores possible avenues to improve the situation for non-executive members.

ANALYSIS

- 11 The Mayor used the word ‘inclusion’ in relation to the involvement of elected members in the activities of the council. It might, therefore, be appropriate to consider what is meant by the term ‘inclusion’. There are two possible definitions that can be applied in the context of the role of council members:
 - that all members are kept informed of what is happening in terms of Mayoral and Executive decisions, and the other activities of the Council and its partners;
 - that all members have some opportunity to contribute to and influence decisions of the Mayor and Executive, and have sufficient power in their representative role to effect the ways in which council services are delivered in their wards.

Elected members, particularly non-executive members, would probably take the view that both forms of inclusion are necessary for them effectively to fulfil their role in town government and as representatives of their communities.

- 12 What follows is an assessment, based partly on the evidence received but also on the basis of twenty eight years' personal experience as an elected member, of the extent to which either or both of these forms of inclusion are in operation in Middlesbrough Council at the present time.

Personal contact with the Mayor and Executive members

- 13 Opinion on access to the Mayor and Executive members was divided: four members said that it was very or fairly useful, four said that it was not very or not at all useful, while three had no opinion. Comments reflected the difficulties some members have in actually getting access to leading members.
- 14 Those councillors who do have the opportunity of talking informally with the Mayor or Executive members may well gain significant insights into the thinking behind policies and decisions, and may even be able to contribute to or influence them. However useful this is to individuals, it is not a substitute for formal, open and transparent structures which have the same outcomes.

Council Meetings

- 15 In response to the question about the value of questioning the Mayor and Executive members' reports to Council, three members said it was very or fairly useful, four said that it was not very useful, while three had no views on the matter. On formal written questions, five members said they were very or fairly useful, two said they were not very useful, and two had no views.
- 16 The comments are more critical:
 - “ ... questions in council are not answered properly.”
 - “ ... the council meeting is a farce – there is no opportunity ... to alter executive or mayoral decisions.”
 - “ ... council meetings are overwhelmingly dominated by the Mayor and Executive saying what is already written in their reports; council members are effectively intimidated into making minimal contributions in the time available.”
- 17 It is the case that Council meetings are normally dominated by executive reports. The reports contain large amounts of detail of the work of departments and executive members usually repeat or elaborate on the

contents of the report. Non-executive members are restricted to questions on the content of the reports. Problems with this format include:

- the reports, arguably, contain far too much detail, making it difficult to identify key issues;
- the reports rarely contain clear details of the decisions for which the executive member has been responsible since the last Council meeting, nor any indication of the issues about which decisions will be taken before the next Council meeting – this is a significant limitation on accountability;
- councillors are formally restricted to questions on the reports – if an appropriate item is not in a report, the issue cannot be raised;
- there is no formal opportunity to make representations on behalf of constituents or on political or moral grounds, except in the form of questions.

- 18 Formal notice questions have only been put by a small minority of councillors. They have to be submitted almost two weeks in advance of the Council meeting. The member is limited to putting the question formally and is permitted only one supplementary question. No other members may ask their own supplementaries nor is there any further discussion of the issue. This does not constitute a very rigorous form of accountability.
- 19 While the Council meeting operates as a means of passing on information, there might be doubts about its relevance, and about the ability of members to effect any change arising from the information available.

Executive meetings

- 20 Questionnaire responses about non-executive members' ability to ask questions at meetings of the Executive Board showed that three members thought this was very or fairly useful, two members thought it was not very useful, while four were neutral on the subject. There were no specific comments about Executive meetings.
- 21 The purpose of the Executive Board is to take decisions and the Mayor, not unreasonably, wishes to do so in a businesslike manner. In his role as chair, the Mayor permits questions, but not speeches, from non-executive members.
- 22 In terms of usefulness for non-executive members, the opportunity to ask a question is of limited value. It contributes little to the sense of inclusion. While it is quite clear that non-executive members should not be able to participate in executive debate, it would be useful if non-executive councillors were given the option to express a direct political view or to make representations on behalf of constituents. This could take the form of a time-limited statement relevant to the issue prior to the executive making its decision.

Seminars and presentations

- 23 Responses about presentations were relatively favourable – six members thought they were very or fairly useful, one had no opinion, while three saw them as not very or not at all useful. There were no specific comments on presentations.
- 24 Seminars and presentations are one means of passing on information about aspects of the Council's activities, and sometimes of the activities of partner organisations. This can be very useful for members, who may not be able to have the information explained in detail in any other format. However, there are problems associated with presentations:
- the perennial problem of timing – not all members can access presentations because of work and other commitments;
 - while presentations are 'inclusive' in the sense that they provide information, they give no opportunities whatsoever for non-executive members to change or influence any decision – there is no formal process of proposing approval, rejection or amendment to the subject of the presentation.

Presentations to the political groups by the Mayor

- 25 Members were divided on the value of the Mayor's briefings to the political groups: four members said that they were very or fairly useful, three said that they were not very or not at all useful, while two were neutral on the subject. Independent councillors feel particularly excluded from this form of involvement because, by definition, they do not have a group. However, there was one strong endorsement of these briefings – "... mayoral briefings to groups are very open, frank and useful".
- 26 This briefing process can clearly be useful in up-dating members on current (and, possibly, future issues). But, like presentations, it carries no formal means by which members might influence decisions. It relies on the willingness of the Mayor to accommodate views expressed in the group forums in his thinking. Its role in inclusion is predominantly, therefore, one of information sharing, but with no easily quantifiable means of measuring political influence.

Overview and Scrutiny process

- 27 Taking all aspects of scrutiny together, there were thirteen very or fairly useful 'votes', six neutral views and five not very or not at all useful views. It should be noted, however, that four of the five negatives were in relation to call-in. Given the virtual non-existence of call-ins over the last two years,

this is hardly surprising – indeed, the two positive ‘votes’ are more surprising.

28 There were some supportive comments on scrutiny:

- “ ... scrutiny gives non-executive members a real contribution to the corporate decision process”.

Other comments expressed reservations about resources – both political and general:

- “ ... scrutiny panels are only as strong as their chairs”
- “ ... the scrutiny process needs more resources put in to make it work effectively”.

There was also some apparent lack of knowledge of the scrutiny process:

- “ ... are any recommendations from in-depth investigations acted on?”
- “ ... how can I be informed of what is called-in for scrutiny?”

29 The scrutiny process is currently the only formal means by which non-executive members are able to put forward recommendations to the Executive for implementation. They can do this following in-depth investigations or in response to the Corporate Performance Plan on an annual basis, and reports from departmental performance clinics on a quarterly basis. All scrutiny recommendations to the Executive are now accompanied by service department action plans which identify how they will be implemented, with the responsible officers identified and with target dates included. The call-in procedure has only been used once, in relation to an issue outside of the council’s responsibility. It is not, therefore, possible to make any useful comment about call-in, except to suggest that it could be better used if members wished to take the initiative on particular issues.

30 The scrutiny process has been effective in contributing to and influencing decisions of the Executive, both as a result of in-depth reports and in its response to the CPP and performance clinics. It is widely regarded as providing an example of best practice regionally and nationally. In some ways, the scrutiny process is still in development, but it is possible to identify limitations:

- it can influence the development of policy through its recommendations to the Executive, but its role in contributing to the development of major policies is still limited;
- the resources available to non-executive members to carry out their scrutiny functions are restricted – there are five scrutiny support staff (as against the 7500-plus staff who work for the Executive!)

- it has to be said that not all non-executive members are enthusiastic contributors to the scrutiny process.

Members' representative role

- 31 The issue of the representative role of members was not included in the questionnaire, but in many ways it is at the heart of the inclusion of members. It should be fundamental to the operation of the council that elected members are supported in this representative role. It might be argued that some of the trends in recent years have in some ways undermined this representative role.
- 32 Community councils were originally established as a means by which the council could meet with and consult local residents, and a councillor chaired meetings. In the late 1990s, councillors were excluded from chairing community councils. This created a division between elected members and local activists which, in some cases, led to acrimony. The community council review has re-opened the possibility of members being able to take positions on community councils, but problems remain.
- 33 The creation of the area community consultation clusters has been presented as a major step forward in consultation. There is some doubt about their consultative value, though that is a matter for another review. But they do illustrate a weakening of the role of elected members. The clusters consist of local activists, appointed by community councils, and elected councillors. The non-elected cluster members have the same rights of influencing service delivery as elected members. In fact, they appear to have more status in the clusters than elected members, who are excluded from the opportunity to hold office in the cluster or to represent it at the Local Strategic Partnership. Councillors' sense of 'inclusion' cannot be enhanced by this situation.
- 34 A basic role of elected councillors is to take up complaints on behalf of constituents. Traditionally, elected members would do this by liaison with appropriate officers. Within the last three years, the 'one-stop' system has been introduced with the intention of streamlining the process of dealing with constituents' complaints. More recently still, members have been advised that they should no longer approach relevant officers at all, but only work through the 'one-stop' system.
- 35 This situation can be seen as effectively 'de-skilling' members, the opposite of inclusion. To add further to the problem, at least one service department does not communicate its response to elected members to enable them to respond to their constituents. One contributor to the questionnaire described it as "... like feeding a black hole". A number of members made similar points at the Council meeting of 15 September 2004.

PROPOSALS

- 36 The following suggestions are offered as possible means of improving the inclusion of elected members in the Council's processes, not only in terms of improving the information available to members, but also by improving their opportunities to contribute to and influence decisions.
- (i) Individual Executive members should improve inclusion for non-executive members by holding regular (monthly?) informal discussion groups with all interested members; and / or they should establish 'backbench' advisory groups of non-executive members.
 - (ii) Council meetings should be re-configured. Executive members' reports should focus on decisions taken since the last Council meeting and issues for decision before the next Council meeting. Additional information about departmental activity should be provided (if at all) in an appendix. Executive members should not repeat verbally and at length the content of the report. All councillors should be entitled to make time-limited statements (not only questions) on past or future decisions on behalf of their constituents or on political or other grounds.
 - (iii) The present formal questioning procedure should be retained, but other members should be able to ask supplementary questions, at the discretion of the Chair. Short-notice questions, with 24 or 48 hours notice, to the appropriate Executive member should be considered.
 - (iv) The Mayor should remove the 'question-only' restriction on non-executive members at meetings of the Executive Board. It is reasonable to permit councillors to make representations to the Executive before it takes any decision. Members in their turn should accept the need for brevity, and the right of the chair to rule on relevance and timing.
 - (v) Seminars and presentations should continue to be offered as a means of passing on information to members. Continued attention should be given to appropriate timing. Seminars and presentations should not be used as a substitute for other means of enabling members to make formal representations to decision-makers on significant issues.
 - (vi) The Mayor's briefings of the political groups should continue. Independent members can only expect to access this offer if they constitute themselves as a group.
 - (vii) The scrutiny process should be supported as the principal formal means that non-executive members have of influencing decisions of the Mayor and Executive. Members and officers should explore ways of enhancing members' role in policy formulation. Scrutiny panels are

capable of dealing with a wider range of business than is currently the case. However, that is dependent on an increase in staff resources.

- (viii) The procedure for calling-in Executive decisions should be made easier by reducing the number of members required for a call-in from five to three.
 - (ix) The review of the newly-introduced arrangements for community councils should take, as its starting point, the importance of re-establishing the role of elected members as community representatives and community champions.
 - (x) The Council should consider the creation of area committees, based on the cluster areas, but constituting elected members as decision makers, with a degree of devolved political responsibility and with a devolved budget. These area committees should be able to feed issues in to the scrutiny process.
 - (xi) The 'one-stop' system should be reconfigured as an aid to members' representative role and not as a constraint on it. Members should not be discouraged from approaching officers direct with constituents' complaints or queries. Members are entitled to expect a response, within a reasonable time, from officers dealing with their complaints and queries, whether through the 'one-stop' system or by direct approach.
- 37 Simply offering more 'information' and debates without any meaningful outcome does not do justice to the democratic responsibilities of elected members. To fulfil their executive, scrutiny and representative roles, members have to be able to 'make a difference'. Taken together, these suggestions could make a major contribution to enhancing inclusion of all elected members in the Council's processes and will assist them to make that difference.

RECOMMENDATION

- 38 That the Overview and Scrutiny Board considers and comments on the proposals in paragraph 36, items (i) to (xi).

COUNCILLOR MICHAEL CARR
CHAIR, OVERVIEW AND SCRUTINY BOARD

16 September 2004