

OVERVIEW AND SCRUTINY BOARD

A meeting of the Overview and Scrutiny Board was held on 9 November 2015.

PRESENT: Councillors J Sharrocks (Chair), J G Cole, J Culley, E Dryden, T Higgins, N Hussain, J McGee, D Rooney and J A Walker

PRESENT BY INVITATION: Councillor N J Walker

OFFICERS: C Breheny, A Crawford, P Duffy, L Henman, G Moore, A Pain, S Reynolds

APOLOGIES FOR ABSENCE Councillor T Mawston, Councillor F McIntyre, Councillor C Hobson, Councillor J Rathmell.

DECLARATIONS OF INTERESTS

There were no Declarations of Interest made at this point in the meeting.

1 MINUTES - OVERVIEW AND SCRUTINY BOARD - 13 OCTOBER 2015

The Minutes of the meeting held on 13 October 2015 were approved as a correct record.

2 ATTENDANCE OF EXECUTIVE MEMBER - COUNCILLOR N J WALKER, EXECUTIVE MEMBER FOR FINANCE AND GOVERNANCE

The Scrutiny Support officer presented a report which provided information in respect of the scheduled attendance of Members of the Executive at the Overview and Scrutiny Board.

The intention was to enable the Board to hear from each Executive Member on progress towards objectives and priorities and any emerging issues or pressures within their portfolio.

Today's meeting was attended by Councillor N Walker, Executive Member for Finance and Governance.

The Executive Member made the following points in particular:-

- The Government would shortly be announcing the outcome of its Comprehensive Spending Review, which would outline public expenditure plans up to 2020. She was not anticipating this to be good news for the Council. A briefing for Members on the Mayor's Budget had been arranged for 16 November 2015 at 5.00 p.m. and would be repeated on 18 November 2015 at 10.00 a.m.
- The capital programme would once again include provision for consideration of bids from Members in respect of projects which they feel could make a difference in their wards. Bids were being invited slightly later this year in order to give newly-elected Councillors an opportunity to get a feel for what initiatives they might wish to put forward.
- A Workshop had been held on the review of Democratic Services and a further Workshop would be held. Cuts had to be made and it was important that Members identified their priorities.
- She was keen to reduce the length of reports and for them not to contain acronyms and abbreviations, where it was assumed people knew what the acronym or abbreviation stood for. Also, feedback had been received from some Councillors that it appeared reports were written for officers - rather than Members. This would be addressed.
- The new Customer Strategy would help save money but it was primarily about providing a better service to the customer.

- Tablets were being piloted with the intention that there would be a move towards paperless meetings. The pilot had identified some technical issues.
- The Trades Union Reform Bill would, among other things, make it more difficult for people to go on strike. This had been mentioned at the recent meeting of the Works Council which had recommended that officers prepare a report on the implications of the proposed changes to the law affecting Trades Unions and how these could legitimately be minimised.
- Some elements of the portfolio, circulated with the Agenda, had now changed. For instance, the portfolio no longer covered Community Councils.

The Chair thanked the Executive Member for her update.

3 **REVIEW OF FREEDOM OF INFORMATION ACT 2000 - CALL FOR EVIDENCE**

The Members' and Statutory Services Officer presented a report concerning the review of the Freedom of Information (FoI) Act by an Independent Commission.

The Act had been in existence for ten years and the Government considered it opportune to review how it was working in practice.

The Independent Commission was inviting evidence from a range of interested parties.

Views had been invited on six questions, two of which were of particular relevance to the Council, namely:-

- Question 1 What protection should there be for information relating to the internal deliberations of public bodies? For how long after a decision does such information remain sensitive? Should different protections apply to different kinds of information that are currently protected by sections 35 and 36.
- Question 6 Is the burden imposed on public authorities under the Act justified by the public interest in the public's right to know? Or are controls needed to reduce the burden of FoI on public authorities? If controls are justified, should these be targeted at the kinds of requests which impose a disproportionate burden on public authorities? Which kinds of requests do impose a disproportionate burden?

The report provided the Board with data on the number of requests; who had made these; the number of requests by service area; number of requests per service area; the subject of requests; the impact of FoI on the Council and the cost.

The report also contained a response from Chris Styles, Editor of the Gazette. Part of the Gazette's response was that it regarded the Act 'as a vital mechanism of accountability which had transformed the public's right to information and substantially improved the scrutiny of public authorities. We would deplore any attempts to weaken it'.

The Members' and Statutory Services Officer made the following points, in particular:-

- The process for handling requests was very prescriptive.
- A lot of background work was required.
- Those requesting information did not have to say why they were asking for it.
- The number of requests was increasing year on year.

The Chair referred to those things that the Council could not take into account in terms of time spent on requests (such as inputting and co-ordinating requests). Given the financial constraints faced by Councils, perhaps this should be reviewed.

Members commented as follows:-

- The Council's response should avoid giving the Government any reason to weaken FOI provisions. It was important that people's rights to request information were protected.
- Decisions on exemptions should continue to be made by the accountable person - accountability was required.
- If the Council said it was in favour of charging for requests this could disenfranchise people.
- We should seek to reduce the number of requests in other ways, such as routing people to the information via the website, for example.
- Officers should work on the presumption that information will usually be in the public domain.
- The Independent Commission should be asked to consider recommending additional resources to assist Councils in dealing with information requests.

In response to questions from Members, the Members' and Statutory Services Officer advised that:-

- The reason service areas were asked how much a request would cost in terms of time, etc., was because often the information was not readily to hand and an indication was required as to the amount of work involved. The Member who raised this felt that this was an additional, unnecessary element.
- There was no limit on the number of questions that people could ask in a request.
- One request had been judged vexatious.
- A £10 administrative fee could be charged for Data Protection requests for information.

ORDERED:

a) That as part of the response the Council is preparing to the Independent Commission, the following be included:-

- The Council affirms its commitment to the principles of the Freedom of Information Act and would not wish to see it weakened.
- Any additional charging for requests should not be made.
- Decisions on exemptions should continue to be made by the accountable person.
- Consideration be given to additional resources to assist Councils in dealing with information requests.

b) That more pro-active use of the Council's website be made, with the intention of directing people to that resource firstly.

c) That it be noted that further evidence from the Leadership Management Team might be submitted in addition to the views of the Board, in order to give further evidential weight to the issues identified.

4

**FINAL REPORT OF THE ENVIRONMENT SCRUTINY PANEL:
EDUCATION/ENFORCEMENT - ENVIRONMENTAL ISSUES**

The Chair of the Environment Scrutiny Panel presented the findings of the Panel's review on the topic of Education/Enforcement - Environmental Issues.

She made the following points:-

- There had been two principal themes: enforcement of offenders and education to raise awareness.
- Overall, a very good service was being provided.
- There were gaps in data but, nationally, just over one half of the fixed penalty notices (FPNs) were paid. The figure was slightly lower in Middlesbrough.
- The Executive had agreed that enforcement would reside with Environmental Services.
- In terms of education, further work was required to deliver a pro-active message as to why people should not fly-tip. The appointment of an additional member of staff would assist this process.
- Not all enforcement powers were being fully used. A planned programme of targeted enforcement would be introduced.
- The use of CCTV may improve the behaviour of people who dump rubbish illegally.

The Chair commented that she liked the idea of 'nudge and budge citizens' to reduce demand on public services, as outlined in paragraph 64 of the report.

In response to a question from a Member the Chair of the Environment Scrutiny Panel said that enforcement would become more robust, with the transfer of responsibility to Environmental Services.

A Member commented on the need for signage at recycling bring sites and fly tipping hot spot areas.

A Member felt that there was a need for a briefing for all Members ahead of a targeted campaign of environmental enforcement.

The Chair of the Environment Scrutiny Panel advised that she would be agreeable to the views expressed in the two preceding paragraphs being included as additional recommendations.

The Scrutiny Support Officer advised that, in accordance with the normal practice, the additional recommendations would be included and the revised report circulated to Members of the Environment Scrutiny Panel for final comment.

ORDERED that the report and its recommendations at paragraphs a) to h) below be approved for submission to the Executive, subject to the addition of recommendations concerning:

- The need for signage at recycling bring sites and fly tipping hot spot areas; and

- The need for a briefing for all Members ahead of a targeted campaign of environmental enforcement.

a) That the number of FPNs issued for littering, dog fouling and fly tipping be closely monitored over the next 12 months. In cases where environmental crimes have been committed FPNs should be issued and verbal warnings stopped. The Panel would like to see a stronger message conveyed that littering, dog fouling and fly tipping in Middlesbrough is not acceptable.

b) That an update be provided in 12 months' time to assess whether the proposal in relation to stronger liaison between environmental enforcement and the integrated enforcement team has been effective.

c) That a co-ordinated annual programme of targeted enforcement activity, which is similar to Hartlepool's 'Respect your Neighbourhood' campaign is undertaken in partnership with other public sector agencies in the town, building on the Middlesbrough Community Clean Up initiative. The Panel is keen to send out a clear message that it is everyone's responsibility to keep the town clean and tidy.

d) That closer monitoring of the bring sites be undertaken through the provision and installation of CCTV, with follow up enforcement action undertaken where required.

e) That the best practice initiatives designed to change people's behaviour in respect of littering, fly tipping and dog fouling by nudging people to dispose of litter / dog mess in the appropriate way be trialled in Middlesbrough.

f) That an education programme be put together in partnership with schools so that young people are aware of the importance of protecting and maintaining their local environment.

g) That consideration is given to the needs of the whole community and information on recycling and how to dispose of household waste be produced in community languages and recognised pictorial form following advice from the BME network.

h) That the Council establishes links with local organisations and charities e.g. FRADE and Teesside Hospice to inform residents of the free collection services they offer for large household items / white goods that are no longer wanted and could be reused.

5 **FINAL REPORT OF THE SOCIAL CARE AND ADULT SERVICES SCRUTINY PANEL: THE PROVISION OF APPROVED MENTAL HEALTH PROFESSIONALS (AMHPS)**

The Chair of the Social Care and Adult Services Scrutiny Panel presented the findings of the Panel, following its investigation into The Provision of Approved Mental Health Professionals (AMHPs).

The Chair of the Social Care and Adult Services Scrutiny Panel advised that the Panel had decided to make a report at this stage due to the urgency of the situation.

She highlighted the following points:-

- One of the challenges was in respect of response times from the Police and the ambulance Service which impact on the Mental Health Act (MHA) assessment process.
- The Panel had found that defining 'adequate provision' was difficult. However, there clearly was an issue in that the number of AMHPs in Middlesbrough (21 down to 9) was reducing, whilst the number of referrals had increased from 128 to 188.
- Neighbouring Authorities were offering a higher salary for AMHPs. The Council had introduced an additional market payment of £2,000 and an honorarium for the same amount. However, this was a short term solution; a more strategic approach was required, going forward.
- The Panel had found that, in some cases, AMHPs who had been trained by the Council had then taken up employment elsewhere and had not been required to pay back the cost of their training, which was a condition of the training.

A Member commented that he hoped Councils in the area would work together to address this issue - rather than, effectively, competing with each other to attract AMHPs.

ORDERED that the report be approved and the following recommendations made to the Executive:-

a) That work is undertaken to examine the merits of developing an AMHP protocol to establish

joint working across the Tees Valley local authorities.

b) That the Council's Health Scrutiny Panel conducts an investigation of police and ambulance response times and the availability of Section 12 doctors, in respect of the MHA assessment process.

c) That the salary for Middlesbrough's AMHPs is increased in line with Redcar and Cleveland Council - point 44 (£38, 405) to point 46 (£40,217) and that, to coincide with the increase in salary, the AMHP job description and personal specification is reviewed.

d) That the employment terms and conditions, in respect of AMHPs, are explicit in stating that: in the event that an AMHP, who has been trained and employed by Middlesbrough Council, terminates their employment within a specific timeframe, then repayment of training fees will be required; and that the Council ensures this condition is enforced.

e) That, if the Council has been unsuccessful in appointing to the recently advertised posts, the posts are re-advertised detailing the increase in salary.

f) That the Council initiates work, across the Tees Valley authorities, to review the current processes for recording and monitoring data/information in respect of the AMHP service.

6 **SCRUTINY PANELS' PROGRESS REPORTS**

A report by the Chair of each Scrutiny Panel was submitted which outlined the current activities of the Panel.

NOTED.

7 **ADHOC SCRUTINY PANEL**

The Chair advised that she would be convening the Ad hoc Scrutiny Panel.

The Chair said that she would like the Panel to examine the following areas from the Board's agreed Work Programme:-

- The Council's use of consultants, both in terms of costs and viability; and
- Training/education for Councillors - mandatory/voluntary - including equal opportunities and media training.

Members agreed with the Chair's suggestions.

ORDERED that the Ad hoc Scrutiny Panel be convened to consider the areas referred to in the two bullet points above.