

Governance Committee

2 December 2019

Scrutiny Review Panel

Report by Review Panel Chairman

Electoral Division(s): All

Summary

This report sets out the findings of the Scrutiny Review Panel established by the Governance Committee in June 2019. The aim is to strengthen and improve the effectiveness of the Council's scrutiny function.

The Panel has considered the new national scrutiny guidance issued earlier this year, the findings of a health-check carried out by the Centre for Public Scrutiny, the views of select committee chairmen and the wider membership plus comparative information on other councils' scrutiny functions.

The Panel's recommendations will require changes to the Council's rules of governance which need approval by County Council at its meeting on 17 December. They include renaming select committees as scrutiny committees, the establishment of a new Fire and Rescue Service Select Committee and changes to the call-in protocol. The Panel did not reach a consensus on the mechanism for appointing select committee chairmen. It recommends a number of immediate actions in response to the Centre for Public Scrutiny health-check.

Recommendations

The Committee is asked to consider the Scrutiny Review Panel's findings and:

- (1) Agree the response to the Centre for Public Scrutiny Health-check recommendations (at Annex A of this report), for immediate implementation and monitoring by Performance and Finance Select Committee; and
- (2) Consider the recommendations made by the Panel, in conjunction with the recommendations of the Director of Law and Assurance, as set out at **Appendix 3**.

Proposal

1. Background and Context

- 1.1 The Scrutiny Review Panel was set up to review the Council's scrutiny arrangements in terms of their effectiveness and their contribution to the business of the Council and to make recommendations to the Governance Committee in the light of:

- (a) New national scrutiny guidance issued in May 2019;
- (b) Best practice from other local authorities;
- (c) A health-check of the Council’s scrutiny of children’s services following the recent Ofsted inspection report, being carried out by the Centre for Public Scrutiny (CfPS);
- (d) Output from the Scrutiny Member Day on 4 September 2019; and
- (e) A recommendation from the Environment, Communities and Fire Select Committee (ECFSC) to review the governance, member involvement and scrutiny arrangements for the Fire & Rescue service.

1.2 The Governance Committee also requested that the Panel review arrangements for the appointment of select committee chairmen, the re-naming select committees as ‘scrutiny’ committees, defining the purpose of scrutiny and the role of members, raising awareness and understanding of scrutiny, skills and knowledge of scrutiny members and the use and value of external witnesses.

1.3 The Panel comprised: Mrs Carol Purnell (Chairman), Mr Peter Catchpole, Mr Paul High, Mr Michael Jones, Mr Pieter Montyn and Mr Bob Smytherman. It held three meetings between September and November 2019 and carried out a survey of all members as well as an engagement session with the chairmen and vice-chairmen of all the select committees. A summary of the consultation feedback is at para 4.

2. Proposal

Scrutiny of the Fire and Rescue Service

2.1 ECFSC requested that the Panel review the scrutiny arrangements for the Fire & Rescue Service and specifically, to give consideration to setting up a separate committee. The context and drivers for this are:

- The need for meeting capacity for the effective scrutiny of Fire & Rescue (F&RS)
- The ever-growing size and volume of business for ECFSC
- The need to improve member knowledge and understanding of the F&RS subject
- A better connection between the service and the wider membership
- A clearer understanding for the service and the public about where F&RS matters are considered and debated.

2.2 The Panel reviewed arrangements in other councils which are integrated Fire Authorities and considered the options set out in the table below.

Option	Details	Considerations
1. New F&RS select committee	<ul style="list-style-type: none"> • 7 members (5 Conservative, 1 Liberal Democrat, 1 Labour) • 4 meetings per year (plus prams, BPGs and 	<ul style="list-style-type: none"> • Significant resource implications • Costs of additional SRA could be met through merging Planning and

Option	Details	Considerations
	task and finish group work as appropriate)	<p>Rights of Way Committees (saving one SRA).</p> <ul style="list-style-type: none"> • No other county council fire authority has a separate fire scrutiny committee • Could lead to demand for other select committees to be established/separated depending on priorities (e.g. Children’s Social Care, Health) • Enables members of this committee to become subject-matter experts and to focus purely on F&RS • May require members to cover more meetings – increasing the burden on diaries and time • Risk the number of meetings will grow
2. F&RS scrutiny remains as is but dedicated, defined time on the agenda for F&RS business	<ul style="list-style-type: none"> • 12 members, meeting 5 times per year (ECFSC has held 3 additional meetings each year since 2017/18) • Could use whole meetings or half of each meeting as business demands. 	<ul style="list-style-type: none"> • No resource implications • No increase in current member workload or diary demands • Opportunity to better manage the demands and agendas of ECFSC • Does not fully address a desire for a distinct forum for F&RS debate • More members involved in F&RS scrutiny than a smaller committee/panel • Not perceived as a real change. • Would need to focus on up-skilling or increasing knowledge base of members.
3. ECFSC has specific, fire-themed meetings (as 2. But with clear business planning)	<ul style="list-style-type: none"> • As ECFSC is already holding additional meetings each year, set aside 3 or 4 meetings each year specifically for F&RS scrutiny (leaving 4 or 5 for other portfolio areas). Advertised in the 	<ul style="list-style-type: none"> • Staff support can be met from within existing resources • Benefits and issues as for 2 above • More defined planning of business • Clearer designation of whole meetings for F&RS

Option	Details	Considerations
using current 'extra' meetings	calendar of meetings at the start of the year.	in council diary and for public and staff <ul style="list-style-type: none"> • No reduction in number of members involved in F&RS scrutiny
4. ECFSC sets up a separate F&RS scrutiny Panel	<ul style="list-style-type: none"> • ECFSC meetings reduced to 5 per year • Separate Panel set up of 6 members (4 majority party; 2 minority party). N.B. Proportionality rules do not apply as not a formal committee. • 3 to 4 meetings per year, meetings in public and webcast. 	<ul style="list-style-type: none"> • Lower additional costs than for separate committee but more than options 1 to 3 • No additional SRA • Panel members could become subject-matter experts • Meets the Scrutiny Review Panel request for a 6-member group to undertake F&RS scrutiny. • Can report direct to Cabinet Member or back to Committee as appropriate. • Risks duplication of work of main committee • Still need to tackle growth in ECFSC business • Limits clarity on what the panel does as opposed to the main committee

2.3 Whilst the Panel was mindful of the costs associated with establishing a new committee, it agreed to recommend setting up a separate Fire & Rescue Service select committee to be reviewed after two years. Members felt that this would provide a greater focus and ease the workload of ECSFC. The Panel recommends a smaller membership for this committee but recognises that it must be politically proportionate. To ensure at least two minority party members, it recommends a membership of seven. Resource implications for this proposal are set out in section 3 of this report. The Panel was keen to ensure that there would be no diminution of current levels of support to the scrutiny function in order to meet these additional costs.

Scrutiny of the Economy Portfolio

2.4 The Panel also recommends that the Economy Portfolio, which currently sits within the ECFSC portfolio of responsibilities, should be transferred to the Performance and Finance Select Committee. This will again ease the workload on ECFSC and is considered to sit better within the PFSC portfolio terms of reference. Where there is any overlap between committees' areas of responsibility, there is still the potential to hold joint task and finish groups or for members of one committee to be invited to join another committee's discussions.

National Guidance and CfPS Review Findings

- 2.5 Following the recent Ofsted report on Children's Services a review of scrutiny arrangements for Children's Services was commissioned from the CfPS. The Local Government Association supported the review which is relevant to all select committees. The review included interviews with select committee chairmen, scrutiny committee members from all groups, Cabinet Members and officers. The final report of the Centre for Public Scrutiny Health-check was presented to the Panel at its meeting in October and its recommendations, along with the Panel's response to these, is set out at Annex A. The overall assessment set out in the Health-check was that:
- (a) Overall the council has an ongoing commitment to scrutiny in terms of the focus of committees, the level of activity undertaken and time and resource dedicated across the organisation.
 - (b) There is a clear realisation and commitment from members and officers that scrutiny could be more effective and productive. The majority of those interviewed welcomed the opportunity to make changes and improvements.
 - (c) There is good support from the democratic services team which is recognised by scrutiny members and from the council's political and officer leadership to support change to enable improvement to happen.
 - (d) From its current base there is a good platform from which scrutiny can successfully develop.
 - (e) Members expressed an interest and enjoyment of scrutiny.
 - (f) There are some barriers and practices that may need to be addressed and member development gaps supported if progress, which is clearly desired by the council, is to be realised.
 - (g) Scrutiny will need to be more strategic and focused on the areas of critical importance to ensure that it makes a useful contribution in the future.
- 2.6 The Group reviewed and commented on the new guidance issued by the Government on scrutiny in May 2019. This guidance aims to strengthen the scrutiny process and highlighted key issues for local authorities to consider. The Governance Committee received a report on this new guidance at its meeting in June 2019.
- 2.7 The Member Day in September 2019 also considered this guidance. The key issues arising from the guidance and considered by the Panel were:
- The role and purpose of the Business Planning Groups
 - The benefits of pre-meetings for effective meetings
 - Selection of Select Committee chairmen
 - Call-in procedure and options for change
 - Training to improve member skills
 - Publicity for the work of scrutiny
 - Reports – to make them more effective tools for scrutiny tasks

Name of Committees

- 2.8 The Panel agreed that the name of committees should be changed to include the term 'scrutiny'. It is recommended that select committees should be

known as scrutiny committees. This should improve awareness of scrutiny within the Council and is in line with the approach taken by other councils.

Business Planning Groups (BPGs) and work programme planning

- 2.9 There was some concern expressed by members about the role of the Business Planning Groups (BPGs). This seems to stem from their role in work programme planning for the committees. Select Committee Chairmen however found these Groups useful for prioritising and planning the work of the committee. It is recommended that the agenda for and notes from BPG meetings should be shared with the whole committee. The BPG report to the committee should be strengthened and consideration given to moving the item to the start of the agenda to enable all members to contribute.
- 2.10 The Panel also recommends that the purpose of the BPGs needs to be clarified as a focus on work programme planning and that they should not operate as a mini select committees in private. The BPGs should be deciding when and how an issue should be scrutinised. The criteria available for BPGs for prioritising items remain relevant and should be consistently used.

Pre-meetings

- 2.11 The Panel considered the benefits of holding pre-meetings ahead of the formal committee meeting in order to plan the meeting in terms of focus and objectives. Members were concerned to avoid the perception that the meeting has pre-determined the outcome of scrutiny ahead of the public debate. The Panel recommends that pre-meetings should be used if there is a difficult or sensitive item on the agenda but not used routinely, to be settled by the BPG.

Selection of Select Committee Chairmen

- 2.12 The Panel considered the process by which select committee chairmen are appointed. Currently the chairmen are nominated by the Leader of the Council and formally approved at County Council. The Group considered options to change this process including an annual appointment by a secret ballot at the committee and developing a selection process based on the skills and experience of members wishing to take up the role.
- 2.13 The Panel did not reach a consensus on this issue, with equal numbers of members supporting no change as a change to appointment by the committee through a secret ballot. There was a strong argument put forward that the skills and experience of members are key deciding factors in terms of whether or not they should become committee chairmen. Whichever appointment process is used, the Panel agreed that information on the skills and experience of members should be provided (either to the Group Leaders making nominations, or to the committee if they are electing their chairmen).
- 2.14 On this matter the Committee is invited to decide whether any change to current arrangements be recommended to the County Council.

Call-in procedure

- 2.15 Members considered the current call-in procedure and also the comparative information received from the survey of other authorities. Of 18 other

councils reviewed, only one had a role for members in deciding whether or not call-in requests should be accepted or not. In most other councils this is a role for the Monitoring Officer or Chief Executive. The Panel recommend that the decision to accept or reject a call-in request should be removed from the BPGs and become the responsibility of the Monitoring Officer. This would remove any perception of political bias from the process. The criteria that currently exists for accepting or rejecting a call-in request are still considered to be appropriate and should be used by the Monitoring Officer in the decision whether to accept or reject the request. The Monitoring Officer should report back to the relevant select committee on any decisions to reject call-in requests, to include reasons for the decisions taken.

Training

- 2.16 The Panel considered feedback from the all-member session held in September 2019 which raised the issue of both regular refresher and specific training for select committee members. The Panel agreed that training should include general scrutiny skills both on an annual basis and, if necessary, as a refresher event, Chairmanship and questioning skills should also take place on an annual basis. Members should also receive some guidance on how to carry out their own independent research and analysis.
- 2.17 The Panel also agreed that report writing training should be considered for report authors to ensure the reports presented are drafted to enable members to receive information in the form best suited to the scrutiny purpose in hand.

Publicity

- 2.18 In order to raise awareness and the profile of scrutiny the Panel agreed that the BPGs should consider the communications/publicity opportunities as part of the work programme planning process. It was agreed to promote greater use of social media to highlight the outcomes of scrutiny and also that there should be more reporting of scrutiny activity to County Council meetings.

Reports

- 2.19 The reports presented to select committees are often long, complex and detailed. Members felt that report writing training should be given to senior officers to ensure reports are more focussed and provide the necessary information needed by the Committee or requested by the BPG. Reports should also be presented on-time so that members have sufficient time to review the information contained within the report and to carry out any research into the issue to strengthen the scrutiny debate.
- 2.20 Members of the Panel were supportive of the recent introduction of a 'Focus for Scrutiny' section in reports as they felt this provides better focus on the issues and outcomes to be achieved through scrutiny.

Venue of meetings

- 2.21 The Panel also considered whether consideration should be given to moving meetings around the county. Members felt that in general the location of meetings should be determined by the BPG, with meetings held at locations other than County Hall where relevant for the agenda. However, members

recognised that it is important to address the perception that all Council business centres on Chichester and therefore proposed a pilot whereby each committee holds one meeting at County Hall North, Horsham during 2020/21. This should be reviewed, to consider the potential for more meetings to be held in Horsham (and potentially, to be alternated between Chichester and Horsham).

Member attendance and use of substitutes

- 2.22 The Panel was concerned that members should commit to attending the whole of select committee meetings and propose that Group Leaders should be given details of members who leave meetings early as part of their quarterly informal update on attendance. In addition, the Panel was concerned that substitutes to select committees should only substitute for the whole of a meeting, not part of meetings. It was considered inappropriate for a member to take part in only part of a meeting, particularly where they may have missed key elements of the issues being discussed. The Panel therefore recommends that the Constitution be amended to include that substitutes to select committees should not cover parts of meetings, but rather the whole meeting.

3. Resources

- 3.1 Most of the changes recommended by the Panel can be met from within existing resources. However, the proposal to set up an additional select committee (which will include support to its BPG and pre-agenda meetings) would have significant resource implications, as estimated below.
- Chairman's Special Responsibility Allowance (SRA) - £9,296
 - Staffing costs (including on-costs), based on current staff support costs for select committees - £48,500
 - Total estimate: **£57,796**
- 3.2 This does not include administration costs (refreshments, training, member travel claims, webcasting) or any additional costs in terms of Fire & Rescue Service staff time. There are incidental costs of paper production and dispatch. There is no current budget provision to meet these costs and so this will need to be planned for the Council's budget for 2020/21.
- 3.3 Consultation with select committee chairmen and vice-chairmen raised a proposal to offset the cost of establishing a new select committee by merging Planning and Rights of Way Committees. This would save one SRA. The Panel did not feel informed enough to put this forward as a proposal and that further consultation on this would be needed, including with Planning and Rights of Way Committee Members. The Panel suggested that the Governance Committee may wish to consider this option.

Factors taken into account

4. Consultation

- 4.1 The Panel consulted with select committee chairmen and vice-chairmen through an engagement session in October 2019 attended by the Panel

Chairman. All select committee chairmen attended and three vice chairmen. Key points made included:

- Most feel that BPGs are valuable and should be retained, although there are opportunities to work differently and engage better with all committee members on work programme planning
- Mixed views were expressed on how select committee chairmen should be appointed.
- All were supportive of the Monitoring Officer having responsibility for accepting or declining a call-in request
- Pre-meetings were not favoured

4.2 The Panel carried out a survey of all members of the Council for their views through a short online survey. Only 33 members responded, a 48% response rate and the Panel is mindful of the low response rate and the need to balance this against other information and feedback reviewed. A summary of key views expressed is set out below:

- Most respondents (19) supported a change in how select committee chairmen are appointed, with 15 of these preferring committees to appoint their own chairmen annually, through a secret ballot.
- 20 respondents felt that BPGs should continue
- 19 did not agree that call-in requests should be made by the Monitoring Officer.
- 18 supported the introduction of pre-meetings for select committees to plan business and agree lines of questioning
- There were mixed views on holding meetings at different venues across the County, with 7 supporting this, 16 supporting it where relevant for the agenda, and 10 not supporting this.
- There was general support for member training to help them in their scrutiny role, particularly on questioning skills.

4.3 Benchmarking information was also sought from other authorities, including county councils and the district/borough councils within West Sussex. This information was used to identify good practice.

5. Risk Implications and Mitigations

Risk	Mitigating Action (in place or planned)
That the scrutiny function is not seen to be effective or robust.	The recommendations made by the Panel should strengthen the scrutiny process so that it can be shown to be effective.

6. Other Options Considered

6.1 The Panel considered a range of alternative options for future scrutiny of the Fire & Rescue Service (as set out at paragraph 2.2). It considered different options for carrying out work programme planning (other than through BPGs) and reviewed comparative data on how other councils' scrutiny functions to identify any different ways of working. This Committee is invited to consider those when deciding which recommendations to approve.

7. Equality Duty, Social Value, Crime and Disorder Act and Human Rights Implications

7.1 None as this report deals with the internal governance processes of the Council.

Carol Purnell

Scrutiny Review Panel Chairman

Contact: Helen Kenny, Head of Democratic Services (and Statutory Scrutiny Officer), helen.kenny@westsussex.gov.uk, Tel: 033022-22532

Annex A - Response to Centre for Public Scrutiny Health-check recommendations

Background Papers

None