

**SCRUTINY PANEL REVIEW PANEL 1
'GOVERNANCE'**

MINUTES

Thursday, 6th February, 2014

PRESENT: Councillors: Young (Chair), Byrne, Ann Chapman, Dhami, Susan Emmet, Gallagher, Gordon (Vice-Chair), Gurmit Kaur Mann, Rose and Stacey.

Also Present

Harjeet Bains - Scrutiny Review Officer, LBE.
Keith Fraser - Head of Scrutiny and Committees, LBE
Helen Harris - Director of Legal and Democratic Services, LBE
Lee Teasdale - Democratic Services Officer, LBE.

1. Apologies for Absence
(Agenda Item 1)

There were none.

2. Urgent Matters
(Agenda Item 2)

There were none.

3. Matters to be considered in Private
(Agenda Item 3)

There were none.

4. Minutes (28.11.2013)
(Agenda Item 4)

Councillor Tejinder Singh Dhami noted that his apologies for the previous meeting of the Panel had not been recorded in the minutes. He asked that this be amended.

Members of the Panel considered a letter submitted by Miriam Galena. In the letter she considered that there had been inaccuracies and omissions in the minutes of the meeting of 28 November 2013.

She stated that the minutes did not fully convey the points she had made in her speech, nor did the recommendations coming out of the meeting reflect her concerns regarding a lack of accountability and transparency.

The Chair thanked Miss Galena, who was present at the meeting, for her input but stated that the minutes were not intended to be a verbatim record of all that was said at the meeting.

The Chair stated that the members of the Panel had considered the full contents of her speech and all other input at the meeting when drawing up their

recommendations at the close of the meeting, and advised that it was at the discretion of the Panel as to which recommendations should be taken further.

Resolved: That subject to the amendment requested by Councillor Dhami, the minutes of the previous meeting of the Panel held on 28 November 2013 be agreed as a true and correct record.

5. Declarations of Interest
(Agenda Item 5)

There were none.

6. Cabinet and Council
(Agenda Item 6)

Keith Fraser, the Head of Scrutiny and Committees and Helen Harris, the Director of Legal and Democratic Services presented a report which asked the Panel to consider the future operation of Cabinet and Council meetings.

Cabinet and Council were the two major decision making bodies of the authority. The decisions that the bodies could take were set out in the legislation, therefore Cabinet could not take 'Council' decisions and vice-versa. 'Cabinet' decisions were more commonly known as 'Executive Decisions'.

Cabinet

Ealing operated a relatively conventional Leader and Cabinet model which met eleven times a year and was in line with the typical London model.

Legislation prescribed that the Cabinet could have no more than nine members plus the Leader, and Cabinet agendas had to be considered against the scheme of officer delegations, as the less that was delegated the more that would have to be considered by the full Cabinet.

Portfolio Holders also took decisions, known as 'Individual Cabinet Member Decisions' (ICMDs). For the sake of administrative convenience these were usually taken immediately before a Cabinet meeting.

There were no public speaking rights at Cabinet, though speakers were sometimes permitted at the Leader's discretion. Members of the Shadow Cabinet were allowed to speak once on an item if it was relevant to their portfolio and notice was received by 9.00am on the day of the meeting. The Leader of the second minority party also had the right to speak under the same arrangements. These speakers were not allowed to debate with the Cabinet or ask questions of officers. All other Councillors had no rights to speak at Cabinet.

Executive Decisions were subject to a range of strict legislative publicity requirements. Including publicity of intended decisions at least 28 days in advance via the Ealing Forward Plan, call-in provisions in relation to key decisions and the requirement to publish all executive decisions taken. Overview and Scrutiny Committee members had the right to see executive decision reports and the background papers to those decisions subject to a few exceptions.

Council

The Full Council met eight times a year. One of these was the Annual General Meeting, largely a formal procedural meeting. Of the seven meetings left, by convention, but not by rule, one of these focussed on the budget and another on the corporate plan. The other five meetings would take important 'Council side decisions' (though these were nearly always agreed after the guillotine had fallen and received no introduction or debate), deal with a limited number of oral questions, motions for 'Opposition Business' (limited to 30 minutes) and general motions.

Motions were dealt with on the Agenda on a 'first come, first put' basis - as received from the day after the previous meeting. Most motions were never debated but dealt with after the guillotine.

The public could engage through presenting petitions or asking questions, which were limited to a maximum of five per meeting respectively.

It was advised that many members did not participate in meetings other than attending and voting when required.

The Chair thanked the Officers for their presentation and invited Panel Members to comment and ask questions.

The Chair began the discussion by querying whether the speaking rights for opposition at Cabinet were adequate.

Whilst some Panel Members expressed concern that the Cabinet pushed too many items through without discussion, others considered that once an item reaches the level where it is being considered by the Executive, all opposition stances should have been heard and considered.

Councillor Stacey felt that it should be ensured that all due process should happen well before an item reaches the Cabinet. He considered that pre-scrutiny would be a good idea. The Chair agreed with this idea in principle, but expressed concern regarding the practicalities, one concern was the occasional difficulties in 'deciphering' which items on the Forward Plan were of importance and the occasional reluctance to bring political 'hot potato' items to Scrutiny.

The Chair asked the Panel whether they felt having more individual decisions would help. Councillor Rose stated that it would allow for 'non-controversial' items to be dealt with more expediently. Councillor Gallagher though raised that the consideration of whether an item was controversial or not was open to subjectivity.

Councillor Stacey advised that Cabinet does have procedures for checking and challenging decisions from within, having the rest of the Cabinet challenge you on issues could help the relevant Portfolio Holder see flaws in a project that they hadn't previously seen, he felt that more individual decisions could harm this process.

Helen Harris explained how the Council Constitution allows for Portfolio Holders taking a number of individual decisions within a £500k threshold. There wasn't a culture of them taking a lot of individual decisions however, with a lot of smaller

decisions being delegated to Officers. She also advised that she would go back to the Directors to discuss the wording of the Forward Plan so that it would provide more clarity to Councillors.

Further discussion took place regarding pre-scrutiny. Helen Harris advised that some items which needed to adhere to fixed deadlines such as the budget and contract awards meant that Officers would need a considerable amount of notice to be able to provide the appropriate reports to Scrutiny.

Discussion then turned towards Full Council. There was discussion regarding whether the amount of Council Questions should be cut back. Most Panel Members felt they were worthwhile and should not be reduced.

The general consensus from interviews had revealed that whilst many considered the Full Council to be ‘theatre’ on occasion. It was still considered a good political forum in which Councillors could ‘learn their trade’.

There was further discussion about whether the Constitution had rules regarding the ‘one item’ Council meetings such as those for the Budget and the Corporate Plan. It was advised that these rules were currently adhered to by convention rather than being rules, though there were rules governing the Annual Council meeting and any extraordinary meetings of the Council that need to be called at short notice.

The Chair thanked Panel Members for their input and advised that any recommendations coming from the discussion would be fed into item 7.

Resolved: That

- (i) the report be received;
- (ii) issues regarding the wording of the Forward Plan be raised by Director of Legal and Democratic Services with the Corporate Board; and
- (iii) any recommendations arising from the item be raised during item 7 ‘Panel Operations in 2013/2014’.

7. Panel Operations in 2013/2014
(Agenda Item 7)

The Scrutiny Review Officer had submitted a draft final report to the Panel. The Chair proposed to run through each recommendation and discuss whether they should be carried on to the final set of recommendations.

There was a concern raised over the structure of the draft final report, some Panel Members considered that the recommendations arising out of the report should open the report, with the detail following after that. The Chair stated that the standard template for Scrutiny Reports was for the evidence to be laid out first with the recommendations concluding the report, and that for most it was the preferred layout.

The Chair then proceeded to run through each recommendation, with discussion taking place where deemed necessary.

Overall Structure Recommendations

Recommendation 1 – That the Council retains its present Leader and Cabinet system.

- Agreed.

Recommendation 2 – That the number of Councillors be reduced to 48.

The Chair explained that this recommendation had arisen following suggestions that it would save on costs. There were also concerns that some backbenchers in the current 69 didn't "have enough to do".

Councillor Chapman stated that if all Councillors were fully committed to their ward work then only having two Councillors per ward rather than the current level of three could work, but as not all Councillors were able to dedicate as much time to their ward work, this could lead to disparities in the workload of some Councillors. She considered that the requirements should be reviewed based on workloads.

Councillor Byrne considered that a workload based review was too subjective. She also felt that a lot more evidence would be required to justify such a large reduction in Councillor numbers.

Councillor Stacey was in favour of the reduction, feeling that many Councillors were currently left without a substantial role within the Council, though he agreed that it would need more consideration before the reduction could be recommended.

The Chair suggested that the recommendation be changed to 'That the Council look at the reduction of the number of Councillors'. This was agreed by the Panel.

- Agreed, subject to revision.

Council Recommendations

Recommendation 3 – Each individual Councillor should only be able to ask one written question

There was consensus amongst Panel Members that this was part of democracy, and that limits should not be placed upon Councillors.

- Rejected.

Recommendation 4 – Two full debates should be permitted at each Council meeting. Opposition business as such, should not continue. If there is a debate on the Budget or on the Corporate Plan then there should be no other debates. A debate generated as a result of a public petition should be a full debate and not restricted to 30 minutes.

It was considered that the recommendation would need further research before it could be agreed.

- To be amended and given further consideration.

Recommendation 5 – The right to propose a motion be allocated to individual Councillors by ballot, by reverse proportionality. Those Councillors allocated a debate may pass on that right to another Councillor, if they so wish.

Councillor Byrne considered that the ballot should not take the Councillor's party into consideration.

Councillor Stacey queried whether the Panel should consider recommending that backbenchers be given priority to submit matters for debate as it would be good training for them and encourage participation. Panel Members expressed concern that some backbenchers may not want to, and that it could still be open to manipulation, Councillor Stacey stated they were risks inherent in the process regardless.

- To be amended and given further consideration.

Recommendation 6 – Seconding of amendments to motions should be formal, with the speaker reserving their right to speak.

- Agreed.

Recommendation 7 – There should be six normal Council meetings a year plus Annual Council and Budget-making, being eight in total.

- Agreed.

Recommendation 8 – There should be a time limit on the response to Council Questions of three minutes.

Panel Members were generally in favour of the recommendation, but it was considered that the Mayor should be allowed to show discretion and allow for a lengthier response should the subject matter require it.

- Agreed, subject to revision.

Recommendation 9 – The Council should investigate the use of cameras at Council meetings so that these can be live-streamed from the Council's website.

Councillor Gordon expressed how he was strongly in favour of the recommendation to stream meetings, stating how the Council was currently at a 'disconnect' to changing technological trends and needs to embrace these to avoid being left behind. He also considered that live-streaming may discourage some incidences of bad behaviour.

- Agreed.

Cabinet Recommendations

Recommendation 10 – There should be a number of minority party non-voting members at Cabinet, with full speaking rights.

The Chair advised that the recommendation came about due to the perceived lack of challenge currently at Cabinet meetings.

Councillor Byrne considered that Cabinet was not the appropriate forum for challenges to be raised, and that more robust pre-scrutiny was key.

- To be amended and given further consideration.

Recommendation 11 – Other Councillors should be able to speak at Cabinet subject to the discretion of the Cabinet.

The Chair considered that this would be useful for Councillors who wished to speak about specific ward issues.

- Agreed.

Recommendation 12 – Members of the public should not be able to speak at Cabinet.

- Agreed.

Recommendation 13 – Wherever possible, decisions should be taken by Portfolio Holder decision, with the right being given to the Shadow Portfolio Holder to require the matter to be considered by Full Cabinet instead.

- Agreed.

Recommendation 14 – Backbench aides should be formally appointed, one for each Portfolio Holder. They should not receive any special allowance.

Helen Harris advised the Panel that there was currently a provision in articles allowing for 'Cabinet Deputies'. The Chair stated that the word 'deputy' implied that the role held a form of responsibility; the role of the aides would purely be a mentoring scheme.

- Agreed.

Recommendation 15 – The Cabinet Forward Plan should contain more detail so as to facilitate pre-scrutiny. Specifically, the abstract that heads each report should be included in the Forward Plan.

Helen Harris advised that the Internal Plan now lined up with the Procurement Plan.

- Agreed.

Recommendation 16 – There should be a constitutional requirement for all strategic or annual plans and policies, as opposed to specific decisions, to be considered by the Overview and Scrutiny Committee before being submitted to Cabinet for approval.

- Agreed.

Scrutiny Recommendations

Recommendation 17 – There should be a formal protocol for any members of the public speaking at Scrutiny.

- Agreed.

Recommendation 18 – The Overview and Scrutiny Committee should be able to see the Budget background papers, as seen by the Star Chamber, once a Cabinet decision has been made so as to allow more effective scrutiny of the Budget.

- Agreed.

Recommendation 19 – Call-ins should specify whether or not Overview and Scrutiny Committee is being asked to refer a decision back to Cabinet. Otherwise, there should be no change in the current arrangements for call-ins.

- Agreed.

Planning/Regulatory Recommendations

Recommendation 20 – A paper should be produced, for public consumption, outlining the legal background for the decision-making process for both Planning and Licensing.

- Agreed.

Recommendation 21 – There should be a protocol for planning applications where there is a wide public interest. This should include site visits, speaking rights, venue and video transmission.

There was a feeling amongst some Councillors that the terms ‘wide public interest’ was a vague definition. The Chair stated that it would be followed for items that have visibly generated a lot of publicity, the recent ‘Oaks’ application being a key example of where following a clearly set protocol would have been helpful.

- Agreed.

Recommendation 22 – Consideration should be given to an attendance allowance for Councillors serving on Licensing Panels.

Whilst Panel Members expressed sympathy that attending daytime panels such as Licensing was a difficulty for some Councillors due to work commitments, the general consensus was that the meetings did not form a special responsibility beyond that which is already expected of Councillors. There were also concerns that it could potentially set a precedent in Councillors requesting allowances in other meetings arranged at times inconvenient to their requirements.

- Rejected.

Ward Forums Recommendations

Recommendation 23 – The concept of having a ‘local spend’ should be supported. There should be no distinction between capital and revenue spends.

- Agreed.

Recommendation 24 – Notes of meetings should be taken by the Neighbourhood Governance Co-ordinator. There should not be a separate minute-taker.

In discussion of this recommendation, Panel Members expressed concern regarding the high levels of officer attendance at some recent forums. In most cases these had been apprentices from the Neighbourhood Governance Team.

- Agreed.

Recommendation 25 – The Neighbourhood Governance Co-ordinators should ensure that the notes from each Ward Forum are made publically available within 15 working days after the meeting.

- Agreed.

Recommendation 26 – A code of best practice should be drawn up for publicising meetings. This might include posting public notices of forthcoming meetings in a variety of locations including schools, public noticeboards and churches; creating a new logo specifically for Ward Forums; and targeted leafleting.

- Agreed.

Recommendation 27 – The administration budgets for Wards should be clarified and Ward Councillors should have control over these budgets. Full virement should be allowed between the administration budget and ‘local spend’.

- Agreed.

Recommendation 28 – Ward Forums should be reminded that they can set the number of meetings/joint meetings they wish to hold each Council year, within their administration budget.

- Agreed.

Recommendation 29 – The current protocol for the filling of forms for project funding should be reviewed to analyse whether the process can be simplified. Where possible, recipients of funding should report back to the Ward Forum on the outcome of the project.

- Agreed.

Recommendation 30 – There should be a requirement for ward-based officers, e.g. Envirocrime, to attend Ward Forums in their area on at least an annual basis. The Ward Forums should consider paying for the officer time involved.

There was a considerable feeling amongst Panel Members that the officer time should not be funded by the Ward Forums.

It was considered by most present that the relevant officers should be obliged as part of their role to attend the Ward Forums relevant to them once a year, without the cost being charged to the Ward Forums.

- Agreed, on the provision that the line “The Ward Forums should consider paying for the officer time involved” be removed from the recommendation.

Recommendation 31 – A paper should be produced, for public consumption, outlining the legal background for the decision-making process for Ward Forums.

- Agreed.

The Chair then asked if any Panel Members wished to suggest any more recommendations relevant to Ward Forums. The Panel agreed that a recommendation stating that Ward Forums were considered successful and should be retained be included in the final report.

Consultations Recommendations

Recommendation 32 – Councillors should be used as a form of ‘focus group’ on Borough-wide consultations to help ensure the relevance and user-friendliness.

- Agreed.

Recommendation 33 – Borough-wide consultations should be brought under centralised control.

- Agreed.

Other Recommendations

Recommendation 34 – The petition to hold an officer to account at a meeting of the Council’s Overview and Scrutiny Committee should be replaced with a petition that would instead hold the relevant Portfolio Holder to account.

- Agreed.

Recommendation 35 – The threshold for the petitions holding a Portfolio Holder to account at a meeting of the Council’s Overview and Scrutiny Committee should be reduced from the 3,000 currently set for holding an officer to account, to 300.

- Agreed.

Recommendation 36 – Section 9.10 of the Council’s ‘Council and Committee Procedures’ be amended to permit any member to move that a matter raised by a public question or petition be referred *either* to the Cabinet *or to the Overview and Scrutiny Committee*.

- Agreed.

Recommendation 37 – The facility for the Health and Adult Social Services Scrutiny Panel to make recommendations to the Health and Wellbeing Board should be noted within the Board’s terms of reference.

- Agreed.

Recommendation 38 – A review of the Health and Wellbeing Board’s Forward Plan should be made a standing item at each meeting of the Health and Adult Social Services Scrutiny Panel.

- Agreed.

Recommendation 39 – The Overview and Scrutiny Committee ensures that an appropriate scrutiny body undertakes the ongoing monitoring including the implementation of the agreed recommendations.

- Agreed

The Chair thanked the Panel Members for their input and requested that they contact the Scrutiny Review Officer should they think of any more potential recommendations for the final report.

Resolved: That

- (i) the report be received; and
- (ii) all recommendations agreed as above be carried forward for inclusion in the final report.

8. Date of Next Meeting

(Agenda Item 8)

Resolved: It was noted that the next scheduled meeting of the Panel is to take place on Thursday 3 April 2014.

Councillor Anthony Young, Chair.

The meeting ended at 9:05pm.