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central midlands audit partnership

South Derbyshire DC – Overview & Scrutiny

Final Audit Report

Our Vision

To bring about improvements in the control, governance and risk management arrangements of our Partners by providing cost effective, high quality internal audit services.

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1 Executive Summary

1.1 Scope of Audit

- 1.1.1 This audit focused on the function and work of the Council's Overview & Scrutiny Committee and sought to provide assurance that its function and work reflected the principles set out in "*The Good Scrutiny Guide*" published by the Centre for Public Scrutiny in June 2019.

1.2 Background

- 1.2.1 As part of the Council's Internal Audit Plan for 2020/21, a review of the function and work of the Council's Overview & Scrutiny Committee has been undertaken to consider to what degree the Committee is being effective in "*improving public services and quality of life for local residents*". The audit was scoped and based on four objectives which captured the principles set out in "*The Good Scrutiny Guide*" referred to above. For clarity, those four principles were as follows:

- Provide constructive "critical friend" challenge
- Amplify the voices and concerns of the public
- Be led by independent people who take responsibility for their role
- Drive improvement in public services

Before going any further, it is important to mention the background to Overview & Scrutiny Committees being established. The concept of these committees was introduced by the Local Government Act 2000 with the intention to provide a scrutiny function to the new political management systems of executive Cabinet structures that the Act created. The committee's role and purpose was to develop and review policy and make recommendations to the Council.

Since its introduction in 2000, the legislative provision has diverged and in England, the main provisions are now found in the Localism Act 2011. However, initial legislation allowed district Councils in England with a population of less than 85,000 to govern with a "*streamlined committee system*". Councils who adopted this system were still required to establish an Overview & Scrutiny Committee which was expected to scrutinise the decision-making policy committees.

The introduction of the Localism Act in 2011 brought further change and permitted all Councils in England to govern with a committee system. The Act also went a step further and removed the obligation for Councils using the committee system to have an Overview & Scrutiny Committee at all. This was primarily because decision-making policy committees should already function with sufficient scrutiny and challenge on a business as usual footing given the existing political balance within these committees. This should therefore negate the need for a separate Overview & Scrutiny Committee.

At this point, it is worth highlighting that the Council operates with a committee system with the following decision-making committees being in operation and reporting to Full Council:

- Environmental and Development Services Committee.
- Finance and Management Committee.
- Housing and Community Services Committee.
- Planning Committee.
- Licensing and Appeals Committee.

As the Council operates with a committee system, but has also opted to run a separate Overview & Scrutiny Committee, the remit of our work has become one of a consultancy/advisory role rather than one of identifying control weaknesses. The crux of this report is around the effectiveness of the Overview & Scrutiny Committee in its current form and whether it is providing any benefit to the Council and local residents through its work.

The work we have undertaken has involved review of Overview & Scrutiny Committee minutes and documents that were available in the public domain on the Council's Committee Management Information System (CMIS). We have compared their content against the four principles, mentioned above, in order that the Council can consider and make an informed decision should it choose to continue with its current overview and scrutiny arrangements or not.

1.3 Distribution & Communication

- 1.3.1 The draft version of this report was issued to Ardip Kaur, Head of Legal and Democratic Services for comment.

This final version will be issued to Frank McArdle, Chief Executive with copies to:

- Kevin Stackhouse, Strategic Director (Corporate Resources).
- Allison Thomas, Strategic Director (Service Delivery).
- Ardip Kaur, Head of Legal and Democratic Services.

This report was produced by Lynne Parkin, Principal Auditor, and Adrian Manifold, Audit Manager. Any enquiry concerning the content of this report or associated issues may be made to Lynne Parkin, Principal Auditor on 01332 643258.

2 Findings

2.1 “Critical Friend” Challenge

Call-in of Decisions

- 2.1.1 In accordance with the Council's Constitution, the Overview & Scrutiny Committee had the power to exercise the *"Call-In procedure in respect of decisions made but not yet implemented by any Policy Committee or Area Meeting"*. Despite the Council's 5 Policy Committee's making decisions which would result in significant spends, affecting the public and impacting on local communities, some which could have the potential to be seen as controversial, we could find no evidence that the Committee had exercised its power and “Called-in” any decisions that had been made by any of the Policy Committee's during 2018/19 and 2019/20.

That said, having reviewed minutes from the Committee meetings that took place during 2018/19 and 2019/20, we could find no suggestion that the Committee had been provided with any agenda's or Work Programmes for forthcoming Policy Committee's in order that members of Overview & Scrutiny could identify any potential key decisions that were due to be made and which they then may wish to select for additional scrutiny. Whilst it's acknowledged that the need to Call-In decisions should be in exceptional circumstances as a last resort, it was considered unusual not to see any exercise of these powers which in effect allowed the Overview & Scrutiny Committee to consider whether a Policy Committee should review its decision.

This was considered a crucial role of the Overview & Scrutiny Committee in being an effective "Critical friend, amplifying the voices and concerns of the public and driving improvement in public services"

Making Recommendations

- 2.1.2 We reviewed minutes from the meetings of the Overview & Scrutiny Committee to ascertain what, if any, recommendations had been made to *"Full Council, Policy Committee, Area Meeting or officer on any matter affecting the District or its inhabitants"*. We observed that in the main, committee sought only to *"note"* the information presented to it and although we did identify 3 instances whereby Committee had sought to make recommendations this was in the capacity of referring their support back to the relevant Policy Committee. We did note one instance whereby, at its meeting in January 2019, Committee had received a report on Street Scene services. This was as a result of a scrutiny review during 2017 and visit in December 2017 to North Warwickshire Borough Council to compare performance. However, despite the review and results of the visit, the minutes recorded that *"Committee noted the information provided in the report"*.

It should be noted that one of the main purposes of the committee listed in their Annual Report for both years 2018/19 and 2019/20 was to *"Write reports and/or make recommendations to Council, Policy Committees or Area Forums in connection with the formulation of policy and the discharge of any functions"*.

The Centre for Public Scrutiny's *"Good Scrutiny Guide"* states that *"Scrutiny's engagement in an issue should always be with recommendations in mind. Inquiring into an issue formally only to "note" is not an effective use of time or resources"*.

Powers to Scrutinise Partners

- 2.1.3 In 2009, Councils were given powers to scrutinise their local Community Safety Partnerships (CSP) through a provision made in the Police and Justice Act 2006. The Centre for Public Scrutiny's *"Good Scrutiny Guide"* produced in June 2019, advised that these powers remained in force.

Furthermore, within the Council's Constitution, Section 4 of the Overview & Scrutiny Procedure Rules stated that *"at least one meeting each year would be dedicated to crime and disorder matters"* whilst the Annual Reports for 2018/19 and 2019/20 also identified *"Having a positive impact on the work and outcomes of external agencies and providers of public services"* as a

function of the committee. As such, we sought to determine whether the Council's Overview & Scrutiny Committee had exercised those powers and subjected the South Derbyshire CSP to a review. We could find no evidence, at least during 2018/19 and 2019/20 that any such review had taken place.

Whilst we acknowledge that the committee had received updates from some external agencies in respect of S106 Health Allocations and Rural Broadband and that minutes recorded questions being asked, the overall outcomes were that the committee "*Noted the information provided*".

2.2 Voice of the Public

Profile in the Wider Community

We observed that the Council held four Area Forums each year across six areas of the district. These were seen as an opportunity for local residents to raise issues of concern. The agenda packs included a schedule of Committee meetings taking place at the Council during the year, including the scheduled Overview & Scrutiny Committee meetings, in order that members of the public were made aware of and could attend any of those public meetings timetabled to take place. However, on review of minutes from meetings of the Overview & Scrutiny Committee during 2018/19 and 2019/20, we observed that "No questions from members of the Public had been received".

Work Programmes and Concerns of the Public

- 2.2.1 As part of the process to establish the Committee's work programme for the year and fulfil its role of being the "voice of the public", we looked to see if the Committee had actively engaged with people outside of the Council with, for example the public, partners, such as the NHS, voluntary sector, contractors and commissioning partners, Town and Parish Councils and others with a stake and interest in the local area.

From minutes of the Overview & Scrutiny Committee meetings that took place during 2019, we observed members requesting topics for scrutiny. However, in so doing, we noted that members appeared to be requesting at least four topics that had also been subject to review in the previous year. Whilst it was not apparent as to whether these areas reflected particular concerns raised by the public and that it could be feasibly argued that members were maintaining a "*Watching brief*" over these areas, it could also be reasonably argued that if the Committee was providing a robust and effective challenge, the need to duplicate topics year on year only to "*Note the information provided*" was not an effective use of resources.

It is also worth mentioning that the Annual Reports for 2018/19 and 2019/20 also recorded "*Contributing to continuous improvement in services through monitoring quarterly departmental performance reports and the implementation of improvement plans*" as a main function of the committee. With that in mind, we reviewed the committees work programmes for 2018/19 and 2019/20 to determine whether monitoring of performance information was being conducted. We could only locate "*Performance measures and benchmarking*" as a topic for review being included in the 2019/20 work programme, tabled in for February 2020. From the minutes of the meeting held on 20th February 2020, we confirmed that the Strategic Director (Corporate Resources) had delivered a report to the committee with the outcome recorded that the committee "*Noted the report and agreed to include further analysis of specific performance indicators in the Committee's work programme for 2020/21*".

Councillor Surgeries

- 2.2.2 The Council currently had 34 councillors across the district and as a means of determining the extent to which they were accessible to the public; we reviewed the general details for each one that had been published on the Council's Committee Management Information System. Whilst contact details in the format of addresses, phones numbers and emails were provided for each, we observed that only 5 councillors offered regular surgeries to meet with local residents in their wards. Although its accepted that councillors were readily contactable should residents wish to contact them, given that our review of minutes from meetings of the Overview & Scrutiny Committee meetings did not identify any questions being received from members of the public or for that matter

Members of the Council on residents behalf, it would be considered unusual that no issues or concerns had been raised by either which could warrant being put forward to the Committee for scrutiny and challenge. This in turn raises the question as to how effective Overview & Scrutiny Committee were in "Amplifying the voices and concerns of the public".

2.3 Independence

Training

- 2.3.1 In the Statutory Guidance produced by the Ministry of Housing, Communities and Local Government (MHCLG) in May 2019, it stated that *"Authorities should ensure committee members are offered induction when they take up their role and ongoing training so they can carry out their responsibilities effectively. Authorities should pay attention to the need to ensure committee members are aware of their legal powers, and how to prepare for and ask relevant questions at scrutiny sessions"*.

In the Committee minutes from the meeting of 19 June 2019, we noted it had been recorded that *"Some members had queried the remit of the Committee and requested that training provision be explored"*. This suggested that Committee members were not clear on their role, remit and function of the Committee. The minutes recorded that in response, members had been advised that *"the Annual Report outlined the main purpose and function of the Committee by providing a summary of how the Committee had discharged its functions"*. We did undertake a review of Members "Training History" which was publicly recorded in the Council's Committee Management Information System. Our review revealed that only one Member, who had been the Chair of the Overview & Scrutiny Committee during 2018/19, had undertaken training in respect of their role on the Committee, albeit that had taken place in October 2015.

Independent Mind-set

- 2.3.2 We sought to ensure that Members of the Committee carried out their roles with an independent mind-set, putting aside party politics to aid effective discussion on issues affecting the district and residents. As per the Overview & Scrutiny Procedure Rules, the Committee *"may require any Member of a Policy Committee, Head of Paid Service and/or Chief Officer or Heads of Service to attend before it..."* Our review of the Committee minutes revealed no instances in which any Members of the Council's decision-making Policy Committees had attended an Overview & Scrutiny Committee in a capacity of:

- *"explaining a decision;*
- *the extent to which the actions taken implement Council policy;*
- *their performance"*.

Given the above, our opportunity to provide assurance, that Committee Members were performing their role with an independent mind-set, putting aside party politics to scrutinise members from the same political party was limited.

However, we did note an instance which implied that members were perhaps influenced by their political views albeit this was not directly related to the discussion of a topic. The minutes of 19th June 2019 recorded that both the Chair and Vice-Chair were not in attendance and had sent their apologies. This resulted in 3 Conservative and 3 Labour Group Members being in attendance. In appointing a Chair for the meeting to take place, proposals to appoint one of the Conservative Members was not carried by a majority. Likewise, a proposal to appoint one of the Labour Members as Chair for the meeting was also not carried by a majority. It was finally resolved that the Strategic Director (Corporate Resources) (in attendance to present a report) would Chair the meeting. The Centre for Public Scrutiny's Good Scrutiny Guide states that *"Councillors sitting on scrutiny committees should not, at those committees, act in an overtly party political way. Scrutiny is meant to be a forum for the evidence-based discussion of issues affecting local people. This will involve discussion of politically contentious issues, which are likely to include disagreements, but these discussions shouldn't be framed by party political viewpoints"*.

2.4 Improvement in Public Services

Methods of Scrutiny

- 2.4.1 We sought to establish whether the Committee made use of the different methods in which to scrutinise topics, whether this be via Committee meetings, establishing Task and Finish Groups (either short or long term reviews) or establishing a "standing panel" (virtually a sub-committee established where it may be necessary to maintain a watching brief over a local issue). Our review of the minutes from the Overview & Scrutiny Committee meetings during 2018/19 and 2019/20 suggested that, in the main, topics were presented for discussion at Committee meetings, usually as a verbal update/presentation or as a report provided to the Committee. This was further supported by the Committee Work Programmes which recorded the project and method of review. This could either be *“Report to Committee, Report to Task Group, Verbal Update/Presentation or Public Meeting”*. We observed that only *“Report to Committee and Verbal Update/Presentation”* was being utilised as methods for review.

We did however note in the minutes from 4th September 2019, that the Chair had updated Committee following guidance received that *“any Task and Finish Group set up by this Committee would need to be composed of Members of the Overview & Scrutiny Committee”* although from the minutes and agendas we reviewed, we could find no suggestion or mention of a proposal to establish a Task & Finish Group. Whilst topics simply discussed at Committee meetings on the basis of a report or verbal update could be appropriate for some issues, this would not always lend itself to being an effective scrutiny mechanism for more complex topics, which may require a more in-depth review resulting in Members reaching conclusions and making recommendations.

2.5 Challenges for Overview & Scrutiny

- 2.5.1 Within the Annual Report for 2018/19 referred to earlier in this report, a series of *“Challenges for 2019/20”* had been identified for the Overview and Scrutiny Committee. These were as follows:
- *“To build on, and update, the achievements of Overview and Scrutiny”*
 - *“To ensure that Overview and Scrutiny continues to make a positive contribution to the development of policy and the continuous improvement of the Council’s operations”*
 - *“To continue to ensure the Overview and Scrutiny work programme reflects concerns of service users, community and the public”*
 - *“To continue to ensure Overview and Scrutiny works with the community and key partners to respond to local concerns”*
 - *“To continue to ensure that the work of Overview and Scrutiny has a positive effect on decision-makers and provides evidence that it has made a real difference”*
 - *“To ensure Overview and Scrutiny takes a more active, appropriate role in respect of the work of the Policy Committee and their decisions”*
 - *“To balance the focus of the Overview and Scrutiny Committee both inward on existing and proposed Council services, and outward to other areas of the community and partner organisations”*
 - *“To build on the existing scoping procedure to make it more robust, to ensure the original scope is used as a point of reference for each work programme item and a tool to measure progress and the value being added by the committee as it completes its work”.*

As these challenges had been recorded in the 2018/19 Annual Report and identify with the four principles set out in *“The Good Scrutiny Guide”*, we expected that the Committee would have established an Action Plan to help it address these challenges to improve its overall effectiveness. We could find no such Action Plan had been put in place. It is also worth noting that the content list of *“Challenges for 2020/21”*, recorded in the Annual Report for 2019/20 contained the same as those for 2019/20.

As we seek to conclude our review, it seems apparent that the Council had gone some way to identifying challenges that the Committee faced in seeking to have an effective Overview and Scrutiny Committee, and which also supported the four principles set out in *“The Good Scrutiny*

Guide". However, whilst identifying these challenges, we can find no evidence that the Council or indeed the Committee had taken any appropriate actions to address those challenges.

3 Conclusion

3.1 Summary

- 3.1.1 On the basis of our review of Overview & Scrutiny Committee minutes and other relevant documents from 2018/19 and 2019/20, we are of the opinion that the Council's Overview & Scrutiny Committee is not providing an effective mechanism for scrutiny when considering the four principles set out by the *Good Scrutiny Guide*.

In the two years examined, the Overview & Scrutiny Committee:

- Has not “*Called-in*” any decisions made by any of the Council's Policy Committees.
- Has not made any recommendations of any substance. Topics that were subject to review only resulted in the Committee “*noting*” the outcome.
- Has undertaken limited scrutiny and review of external agencies. Where this has happened to some degree, the result has been the Committee “*noting*” the outcome.
- Has not subjected the South Derbyshire CSP to an annual review, despite the powers afforded to the Committee to do this and this being specifically recorded in Section 4 of the Overview & Scrutiny Procedure Rules.
- Has demonstrated little evidence of being the voice of the public. Duplicate topics for work programmes have been requested year on year with outcomes simply being “*noted*”. There has also been limited monitoring of topic areas identified as being a key function of the committee.
- Has received little training to allow members to fully understand their role and that of the committee.
- Has not clearly set aside the influence of party politics. This was evidenced when appointing a temporary chair for a meeting in the absence of the Chair and Vice-Chair.
- Has not utilised the various methods of scrutiny to their full potential. Methods have been limited to reports to committee and verbal updates/presentations.
- Has not established an Action Plan to address the series of challenges listed in the Annual Reports for both 2018/19 and 2019/20.

4 Suggested Actions

- 4.1.1 We suggest that the Council considers undertaking a review into the work and function of its Overview & Scrutiny Committee. The review should involve an honest appraisal of the committee's work against the four principles of effective scrutiny set out by the Centre for Public Scrutiny's *The Good Scrutiny Guide, June 2019* (written to complement the Government's Statutory scrutiny guidance published in May 2019 by the MHCLG).

As the Localism Act 2011 removed the obligation for Council's using the committee system to have an Overview & Scrutiny Committee at all, the Council should consider its options and assess whether the Overview & Scrutiny Committee, in its current format, is truly having a positive impact on “*improving public services and quality of life for local residents*”. If the Council reaches an opinion that there is adequate scrutiny in place with its existing committee system and the political balance within those committees, it should consider taking advantage of the Localism Act 2011 and disband the Overview & Scrutiny Committee.

Should the Council opt to continue with the existence of an Overview & Scrutiny Committee, the Council should consider whether its focus and methods of scrutiny need to change, perhaps with the emphasis being more on where it can add value through the robust scrutiny of external partners and agencies in the community. These organisations, sometimes working alongside the Council to deliver services to local residents and making decisions which impact on public services, potentially lacks the challenge and scrutiny that a politically balanced, effective scrutiny committee can and should bring. Also, should the Overview & Scrutiny Committee continue, an Action Plan should be developed to address the series of challenges listed in the last two Annual Reports.

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