
Effective Organisation Overview & Scrutiny Committee

23 March 2010

Report of Head of Civic, Democratic & Legal Services

Review of the Effectiveness of the Executive Forward Plan – Draft Final Report

Background to the Review

1. For some time, scrutiny Members have been expressing concern that their inability to carry out pre-decision scrutiny is due to the limited amount of time available between items appearing on the Executive Forward Plan and the relevant decision making meeting taking place. A majority of items appear on the Executive Forward Plan (FP) on average six weeks before the decision is required and this may be insufficient time to carry out any pre-decision scrutiny of the issues without requiring a deferral of the issue to a later decision meeting.
2. With this in mind, this Committee agreed to look in detail at the current use of the Council's FP in order to identify any methods for improving its use and effectiveness, and to agree a robust method for identifying issues suitable for pre-decision scrutiny.
3. In deciding to undertake this review, Members recognised that the FP is not the only tool available to assist them in identifying suitable topics for pre-decision scrutiny, and that there may be wider planning issues to be addressed which may provide greater assistance.
4. In November 2009, Members received a scoping report that presented information on the legislative and constitutional requirements associated with an FP. The report highlighted a number of requirements that were not currently being met and Members suggested that Democratic Services should make those necessary changes immediately to bring the Council's FP in line with legislation.
5. Having dealt with meeting the legislative requirements, the Committee identified a number of other issues to be addressed by this review:
 - the appropriateness of including only 'Key' decisions on the FP – it was recognised that should they recommend this change, it would limit the public's access to information on forthcoming 'Non-Key' decisions, thereby limiting their participation in the decision-making process. They therefore agreed that if as a result of their review, they were to recommend limiting the FP to 'Key' decisions only, they would also need to make recommendations in regard to an alternative mechanism for identifying forthcoming non-key decisions, in

order to ensure the same level of transparency and opportunity for participation by Members and the public.

- The inability to use the FP as a method of identifying issues suitable for pre-decision scrutiny, due to them appearing on the FP only 4/6 weeks before the decision is required.
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 - Whether the current format of the printed FP was overly complicated, and whether the information therein was relevant and/or sufficient
6. With that in mind, the Committee agreed to focus their review on the following issues:
- Should the Forward Plan be limited to 'Key' decisions only
 - The timing of Items appearing on the Forward Plan
 - Identifying an optimum format for the printed Forward Plan

Consultation

7. Both the Democratic Services Manager and the Monitoring Officer were consulted on the information gathered in support of this review. The Committee also sought the views of Executive Members, Group Leaders, Directors, Senior Officers, and FP Contacts.

Information Gathered & Analysis

8. The information gathered in support of this review, is shown in detail at Annex A.
9. In reviewing the Council's current working practices relating to the FP, the Committee identified a number of changes required to bring its operation in line with legislation and the Council's Constitution. These were:
- to carry out the annual publication of its statement of intent
 - to amend the period covered by each published plan to ensure it is produced at least 14 days prior to the first day upon which the plan comes into effect
10. The Committee also recognised that the following information required by legislation was currently missing from the FP:
- A list of the members who make up the Executive
 - The steps that may be taken by any person who wishes to make representations to the Executive or to the decision maker about the matter in respect of which the decision is to be made, and the date by which those steps are to be taken
11. The Committee agreed that it would be better if this missing information appeared in the introduction section at the beginning of the printed FP (and on the FP homepage online), rather than on each individual FP entry.

13. As all of the above are required by legislation, officers within Democratic Services are already making arrangements for these changes to be put in place.
14. In addition, the Committee recognised that:
 - a) information on any consultation due to take place is rarely identified within any of the FP entries. The Council's working practices therefore need to be revised to ensure any consultation due to take place is identified (in line with legislation and the Council's Constitution).
 - b) there is no longer an organisational need to:
 - publish the FP twice a month - in an effort to reduce the amount of work involved in administering and publishing the plan, the Council could revert to publishing only once per month (on or around the 14th of each month) in line with legislation.
 - Include information on the internal clearance process – this could be removed from each entry, thereby limiting the amount of work involved in submitting an entry and helping to focus the public's attention on the key information e.g. the description of the decision due to be made
 - c) the type of decision due to be made could be made clearer on each FP entry by using simpler phrasing e.g. key or non-key, rather than 'Executive Decision of 'Normal' importance'.
 - d) many items submitted are incorrectly identified as 'non-key' decisions when in fact they are 'key'. Members considered recommending the removal of 'non-key' items from the plan (bringing the FP in line with legislation), but recognised the benefit of having all forthcoming decisions recorded in one place. However, if both are to remain in the plan, Members felt the situation could be improved if the definition of a 'key' decision was more clearly defined, and if officers submitting items and administering the plan, were better informed. The Committee therefore agreed to recommend changes to the definition of a 'key' decision.
 - e) it may be beneficial to identify within each FP item the relevant overview & scrutiny committee, whose remit the item relates to. This would assist Members and the public in submitting possible topics for scrutiny review to the correct scrutiny body. It would also provide another mechanism for searching through the online plan for items of interest.
 - f) the Council's Constitution will need to be updated to ensure it fully reflects all the legislative requirements, and any changes required as a result of this review.
15. Finally, the Committee acknowledged that the FP is not the optimum tool for identifying forthcoming issues suitable for pre-decision scrutiny, and agreed that the Council now needs a cultural change in the way that scrutiny is supported within the organisation. They recognised that an improved level of support from Directorates, would help to ensure that the scrutiny committees were kept more informed of future work planned and developing policy changes, thus providing a working

environment which would facilitate opportunities for carrying out pre-decision scrutiny. The Committee therefore agreed that an optimum mechanism needs to be identified to improve:

- buy into the role of scrutiny amongst senior officers across all directorates
 - the working relationship between the Executive and Scrutiny
 - scrutiny's ability to undertake constructive challenge and enhance their role in policy development
16. Having concluded the above, the Committee formed a Task Group made up of three of its members to draw up some draft recommendations for the full Committee's consideration at this meeting.

Recommendations Suggested By The Task Group

17. Bearing in mind the Committee's findings, the Task Group has suggested that this Committee make the following recommendations to the Executive:
- i. the Constitution be revised to reflect the full requirements of the legislation and that officers be instructed to ensure working practices are in line with these requirements
 - ii. publication of the FP to revert to once per month, on or around the 14th of each month
 - iii. the 'Internal Clearance Process' section be removed from each FP entry
 - iv. the identification of the type of decision to be made clearer on each entry on the Forward Plan through use of the words 'key' and 'non-key'
 - v. the definition of a 'Key' decision be revised to provide clarity to officers submitting items, as follows:

A key decision means a decision made in connection with the discharge of a function which is the responsibility of the Executive and which is likely to:

- *result in the Council incurring expenditure, or making savings, which are significant having regard to the Council's budget for the service or function to which the decision relates i.e.:*
- *make a saving of more than 10% or require spending that is more than 10% of the budget for a particular area or;*
- *make a saving of more than £100,000, or require spending that is more than 100,000 of the budget for a particular area*

(which ever is the lower amount i.e. 10% or £100,000) – please note the amount of £100,000 suggested, is significantly lower than the figure of £500,000 included in the current definition

- *to be significant in terms of its effects on communities i.e. it would have a significant and lasting impact on one or more of the following:*
 - *reputation of the Council*
 - *the environment*
 - *the local economy*
 - *community safety*
 - *human rights, equal opportunities or racial equality*
- vi. the Monitoring Officer to be responsible for the interpretation of the words **significant** and **lasting** in the effects on communities test
- vii. a definition of the term 'particular area' be provided so that officers and members of the public are clear
- viii. each entry should clearly identify which O & S Committee's remit the issue relates to
- ix. more focus be placed on supervising the use of the FP i.e. the Forward Plan Administrators should ensure all the required information has been included – training to be provided where necessary.
- x. a CMT member be identified as lead for scrutiny charged with raising the profile of scrutiny across the Council and with external partners
- xi. Scrutiny leads within each Directorate be identified to work with the relevant Scrutiny Committees, their Chairs and the Scrutiny Officers

The Monitoring Officers Views on the Suggested Recommendations

18. The Monitoring Officer's views have been sought on the suggested recommendations listed above. In reminding the Committee that technically (legally) it is the Leader's Forward Plan, she supports the basic changes identified in paragraphs 10 and 11 of this report, and has made the following comments in regard to the recommendations of the Task Group:
19. Changing the definition of a 'key decision'
The legislation requires a 'key decision' to be defined as those are decisions which have to be taken in public and which therefore have to appear on the FP. Given that this council includes all decisions for the executive and executive members to be included on the FP and all of those decisions are taken in public, it is not immediately clear why the distinction between 'key' and 'non key' items is significant except insofar as officer decisions are concerned. (Officer key decisions have to appear on the FP but do not have to be taken in public)
20. The statutory definition of 'key decision' is one which is:
 - likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates, or

- Significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the Council
21. The proposed financial limit is currently unclear as there is no definition of 'particular area'. The recommendation asks for that to be defined but it would be useful to have an understanding of whether the committee is thinking in terms of cost centres (potentially very small service areas) or Divisions (much larger service areas). Lowering the figure to £100,000 may mean that it falls outside the definition of 'significant' included in the legislation.
 22. In terms of the impact on communities, the assumption is that this refers to the impact on two or more wards as that is the statutory definition unless it is the intention of the Committee that this could apply to one ward only. The reputation of the Council does not obviously fall within the definition of 'impact on communities' and this should be removed. Overall it is not entirely clear why this element of the statutory definition needs further elaboration.
 23. Identifying corporately, key issues to scrutinise, and helping to shape future policy development or improve the way we do things
Ensuring that scrutiny is involved in helping to shape future policy and practice is key to developing successful scrutiny. It is important that this is supported at senior officer level and proposals will be put to the Council Management Team to improve this link. However, it is my view that it is not appropriate for Members to make recommendations as to how officers organise themselves and in that light recommendations (x) and (xi) are not appropriate. However the proposals to be put to CMT are likely to include the suggestion that a CMT member be identified as lead for scrutiny and that Scrutiny leads within each Directorate be identified to work with the relevant Scrutiny Committees, their Chairs and the Scrutiny Officers. Some consideration also needs to take place about the level of appropriate engagement between each Scrutiny Chair, relevant Executive Member and the CMT scrutiny lead.
 24. Consideration is also being given to improving the process of planning Executive agendas. This ought to have an impact on forward planning throughout the Council which in turn should make the FP a more effective tool for scrutiny.

Corporate Strategy

21. This scrutiny review is in line with the Council's aim to improve the Council's organisational effectiveness i.e. 'we shall be a modern council with high standards in all we do, living up to our values and be a great place to work. As members of the public are entitled to participate in the Council's decision making process, it is important that the Council's Forward Plan is robust and informative.

Implications

22. **Legal** - The Council's Constitution will need to be updated to reflect any changes approved by the Executive as a result of this review. The Council must comply with its statutory obligations relating to publication of the Forward Plan and as such, where the Committee has identified the Council is not currently complying

effectively, it is important that those changes (identified in paragraphs 10-11) are implemented with immediate effect

23. **Human Resources** – If a decision is taken to limit the FP to ‘Key’ decisions only and use the alternative mechanism outlined within the table at paragraph 9 to identify forthcoming ‘Non-Key’ decisions, this would result in officer time being saved through the reduction in time spent populating and administering the Forward Plan.
24. There are no known Financial, Equalities, Crime & Disorder, ITT, Property or Other implications associated with the recommendations in this report.

Risk Management

25. If the changes needed to ensure the Forward Plan is meeting the legislative and constitutional requirements are not made, there is a risk to the Council that the Forward plan will remain organisationally ineffective and moreover, not be operating in accordance with statutory requirements.

Recommendations

26. Having considered the information within this report and its associated annexes, and having considered the comments of the Monitoring Officer above, Members are asked to amend and/or agree the recommendations suggested by the Task Group, as shown at paragraph 17 above.

Reason: To conclude the work of this review, in line with scrutiny procedures and protocols, enabling the final report and recommendations to be put forward for consideration by the Executive.

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Wards Affected:

All

For further information please contact the author of the report

Background Papers: Scoping Report dated 24 November 2009; Interim Report dated 12 January 2010

Annexes:

Annex A – Information Gathered In Support of the Review