

BIRMINGHAM CITY COUNCIL

CO-ORDINATING O&S COMMITTEE – PUBLIC MEETING

1000 hours on Friday 11th January 2019, Committee Rooms 3 & 4

Action Notes

Present:

Councillor John Cotton (Chair)

Councillors Mohammed Aikhlaq, Tahir Ali, Deirdre Alden, Debbie Clancy, Liz Clements, Roger Harmer and Rob Pocock

Also Present:

Steve Robinson, Birmingham Independent Improvement Panel

Sally Hammond, Birmingham Independent Improvement Panel

Jonathan Tew, Assistant Chief Executive

Kate Charlton, City Solicitor

1. NOTICE OF RECORDING/WEBCAST

The Chairman advised that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and that members of the press/public may record and take photographs except where there were confidential or exempt items.

2. APOLOGIES

Apologies were received from Cllr M. Khan.

3. DECLARATION OF INTERESTS

None.

4. ACTION NOTES/ISSUES ARISING

(See document No 1)

The action notes from the meeting held on 7th December 2018 were agreed.

The Chair noted that following a request at the last meeting, the work programmes for the other O&S Committees were now appended to the Co-ordinating work programme item.

Emma Williamson undertook to check whether the information on Relationship Managers, requested at the last meeting, had been circulated.

5. BIRMINGHAM INDEPENDENT IMPROVEMENT PANEL – UPDATE

(See document No 2)

Steve Robinson from the Birmingham Independent Improvement Panel (BIIP) opened the discussion by reminding members that the Panel had originally been intended to be in place for a short time. The Panel is now intending to stand down at the end of March this year, having sent a report and a letter to the Secretary of State. This will highlight what has been achieved in the last few years, what still needs to be done and the risks the Council faces and how these will be mitigated.

He noted that the City Council is still in the foothills of where it needs to be. However, many of the foundation stones are in place: an emerging senior management team and better financial management for example. Over the forthcoming years, the focus has to be on outcomes for the citizens of Birmingham.

There need to be processes in place to challenge the Council and scrutiny is crucial in that. He also noted that the Corporate Governance Improvement Plan is being updated.

Steve Robinson said that he would welcome the committee's views on what is working and what needs to change. In the ensuing discussion, members of the committee made the following points:

- It was suggested that Scrutiny Chairs should have a regular session with the Deputy Leader to gauge any issues arising that scrutiny could have some advance warning of, as her role is to have oversight on performance across the council. A tracker could be used to keep sight of how these issues were progressing.
- At a call-in yesterday (Resources O&S) the Chair of that Committee was asked to write to the Leaders of the groups about the role of Cabinet Members and how "full time" that role is. One of the questions was how far Cabinet Members were fully briefed and had time to properly consider decisions.
- There are concerns that some decisions are implemented ahead of the expiry of the call-in period – this trend needs to be nipped in the bud quite quickly.
- There are concerns about compromise agreements with regards to accountability and transparency, where it is difficult to follow up on an issue because officers have left the council. There should be more transparency around these.
- There has been a big turnover of senior staff and we have yet to see evidence that the situation has improved.

- Late reports and verbal updates can be a problem for scrutiny.
- Increased delegated powers reduce transparency and the ability of scrutiny to do its job.
- How the Council manages transformational change is as important as governance issues, and the Panel could do more to differentiate between day to day running and major improvements.
- The Corporate Governance Plan refers to explicitly putting residents at the heart of decision-making which is critical.
- There should be parity of esteem between scrutiny and the executive; if scrutiny is to take a stronger role then that needs to be explicitly recognised.
- Call-in sessions have been very rigorous and have shaped the thinking of officers and showed the value of the call-in process.
- Members offered their views on the member development sessions held. Members said that training offered at the start of the year was very useful as a refresher on the role of scrutiny. Members of larger groups can support each other, so it would be useful to get the view of the sole Green member of the Council. However, not all training met the needs of the members and the skills level of members has not been changed by the training offered. There are gaps and problems with attendance. Training and development of those presenting to scrutiny is also needed.
- There is a transparency issue with regards to contracts, in particular the Amey contract, which is very frustrating.
- Policy overview role of scrutiny is important but the remits of the scrutiny committees are still large.
- The Panel has made a difference, and has helped “steer the ship”. However, with regards to finance, there are still issues as evidenced by the Grant Thornton report; and with regards to governance, there are still issues as evidenced by the current strike issue.
- The Corporate Governance Plan is mainly rated green or amber, which is difficult to believe.
- There has been a radical change in the demand on members over the last decade.
- It would be useful to reflect on call-ins, and benchmark across other councils as to how effective the tool is.
- Transparency is key – detailed and timely reports facilitate effective citizen engagement.
- Scrutiny needs to be careful of accepting long presentations, rather than having proper discussion and question and answer sessions.
- Pre-meetings can be useful in planning the meeting and agreeing questioning.

Steve Robinson responded:

- The key question is “have things changed?”, so not just have members been trained for example, but do they understand their brief.

- The Panel shares concerns about implementing decisions before the end of the call-in period and will be asking how officers will ensure that this does not happen in the future.
- There are still concerns about medium term financial planning. The Grant Thornton report looked back to 2017/18, now there is a better grip, more in-depth understanding of where savings are deliverable. This is a journey and there is still some way to go.
- Discussions should take place with Cabinet Members ahead of decision-making so as to reduce the need for call-ins;
- The Panel had noted a number of apologies to scrutiny – why do members think that is? Members agreed that is an on-going concern, though it is not on all committees. Any pattern of absence should be noted, and groups should emphasise that scrutiny is part of the members’ role.

The Chair summed up the challenge to re-build an effective scrutiny function for the City Council, which had suffered because of the reduction of committees and the resource issue. This is also a work in progress – parity of esteem is key and has not yet been achieved across the organisation. The intention is to revisit the Review of Scrutiny completed last year and to add in the issues raised today.

Steve Robinson thanked the committee for the discussion and reiterated that he thought progress had been good.

Jonathan Tew informed the committee that the stocktake report will be reviewed with a self-assessment and a closing position on the Corporate Governance Plan set out. A 2019/20 plan will then be created. The key components for quality assurance are likely to be:

- Robust Audit and Scrutiny;
- A different offer from the LGA, building on the peer-led approach currently in place;
- Third party support around specific risks.

This will be worked on with the committee and alongside the review proposed by Scrutiny.

6. LEGAL SERVICES UPDATE

(See document No 3)

Kate Charlton, City Solicitor, outlined the position with regards to the legal services operating model.

Members made the following points:

- The core plus category includes income from external sources, and this should be maximised.
- There is no reference to risk in this report, including whether the budget will be there for the core service in coming years, and if that results in a move to core-plus, then what impact will that have. It was explained that the core

services are predicated on mitigating risk to the council. It is the job of the City Solicitor to keep the council safe and legal

- The idea of dispensing with the internal legal department and using that of another local authority; or bringing in work from other local authorities was discussed. There would be a cost to not having an in-house legal service as other local authorities would charge and information suggests that that would be around 150% to 200% of current costs. The legal team have secured some external tenders, particularly where we have a national reputation, for example on Compulsory Purchase Order work. The next step is to talk to the other Combined Authority councils as to how we could work better together; this work is at an early stage.
- The service level agreements set out that all adult social care work is within core to mitigate potential judicial review challenges. Kate Charlton confirmed that the legal department advised on the risks ahead of the judicial review for Fairways.
- Members said that legal officers are not well known to Members; it could be useful to have more information on the legal team, for example who does what, and where people are based. The City Solicitor offered to come and talk to the different committees with the lawyers with responsibility for those areas and the new Assistant Director who is starting next month. There are 190 lawyers made up of both permanent (121) and locum staff, the biggest legal team of all local authorities. The legal team deals with approximately 8,000 instructions a year.
- External legal advice is sought when the internal team does not have either the capacity or specialist knowledge, for example the work on clean air.
- The regulatory committees have dedicated lawyers to support them; if issues arise that cannot be dealt with then will go outside, but the Council has experienced lawyers in this team.

The City Solicitor undertook to provide a high level breakdown of what the legal team is working on, to indicate where the time is being spent.

Emma Williamson, Head of Scrutiny, introduced the report on confidential and exempt information. In response, Members agreed that the City Council should adopt something like the Leeds model so Members and officers must think twice about what is kept private. Members raised the following issues in the discussion:

- It is important to learn from past experience – there have been a number of examples where there has been information on the private report that should not have been. At a call-in the day before, the meeting moved into private session and discovered that the report was wrong.
- Information in private reports should be challenged.
- The note provided to the committee should have contained the qualifications and public interest test set out in the Act.

- Cabinet Members need to make two decisions: is the information exempt and if it is, is there a public interest in publishing? This should be explicit.
- Training is needed to ensure that there is full understanding – Kate Charlton and Emma Williamson will go to directorate management teams to ensure this.
- A better understanding of commercial confidentiality is needed, and how this intersects with public interest.
- The terms under which external work is commissioned should be considered so that contractors understand that information will be shared;
- Reasons should be given as to why information is exempt.
- Using bureaucratic tools to ensure information is public, which introduces a potential delay. Option 2 is clear and simple.
- This should be implemented before April.

The City Solicitor said her recommendation would also be to move to the Leeds model.

RESOLVED:-

The Chair of the Committee to write to the Chief Executive setting out the Committee's support for the Leeds model, and that this should be implemented by April 2019.

7. WORK PROGRAMME – JANUARY 2019

(See document No 4)

RESOLVED:-

That the work programme be noted.

8. REQUEST(S) FOR CALL IN/COUNCILLOR CALL FOR ACTION/PETITIONS RECEIVED (IF ANY)

None.

9. OTHER URGENT BUSINESS

10. AUTHORITY TO CHAIRMAN AND OFFICERS

RESOLVED:-

In an urgent situation between meetings, the Chairman jointly with the relevant Chief Officer has authority to act on behalf of the Committee

The meeting ended at 1210 hours.