

OVERVIEW AND SCRUTINY BOARD

A meeting of **Overview and Scrutiny Board** will be held on

Monday, 22 June 2015

commencing at **6.00 pm**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,
Torquay, TQ1 3DR

Members of the Board

Councillor Barnby
Councillor Bent
Councillor Bye
Councillor Darling
Councillor Lewis

Councillor Stockman
Councillor Stocks
Councillor Tolchard
Councillor Tyerman

Co-opted Members of the Board

Penny Burnside, Diocese of Exeter

Working for a healthy, prosperous and happy Bay

For information relating to this meeting or to request a copy in another format or language please contact:

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01803 207063

Email: scrutiny@torbay.gov.uk

OVERVIEW AND SCRUTINY BOARD AGENDA

1. Election of Chairman

To elect a Chairman of the Overview and Scrutiny Board for the 2015/2016 Municipal Year.

2. Apologies

To receive apologies for absence, including notifications of any changes to the membership of the Committee.

3. Appointment of Vice-Chairman

To consider appointing a Vice-Chairman of the Board for the ensuing Municipal Year.

4. Minutes

To confirm as a correct record the minutes of the meeting of the Board held on 8 April 2015.

(Pages 1 - 2)

5. Declarations of Interest

a) To receive declarations of non pecuniary interests in respect of items on this agenda

For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda

For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(Please Note: If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

6. Urgent Items

To consider any other items that the Chairman decides are urgent.

7. Establishment of Policy Development Groups

The above decision was called-in by Councillors Lewis, Bent, Darling (S), Morey, Barnby, Tyerman, Tolchard, Thomas (J), Thomas (D) and Stocks on 10 June 2015.

(Pages 3 - 27)

The reasons for the call-in are attached together with the Record of Decision and the report “The principles of overview and scrutiny in Torbay” which was prepared following work undertaken by the Centre for Public Scrutiny between November 2014 and February 2015.



Minutes of the Overview and Scrutiny Board

8 April 2015

-: Present :-

Councillor Thomas (J) (Chairman)

Councillors Addis, Bent, Darling (Vice-Chair), Davies, Pountney, Stockman and Tyerman

(Also in attendance: The Mayor and Councillors Cowell and Mills)

55. Apologies

An apology for absence was received from Councillor Kingscote.

It was reported that, in accordance with the wishes of the Conservative and Liberal Democrat Groups, the membership of the Board had been amended to include Councillors Addis and Pountney in place of Councillors Hernandez and Pentney, respectively.

56. Minutes

The minutes of the meetings of the Board held on 18 and 24 February and 23 March 2015 were confirmed as a correct record and signed by the Chairman.

57. Chairman's Announcement

Given the impending Local Elections, the Chairman wished to place on record his thanks for the hard work and support of all Members of the Council who had been involved with the work of the Overview and Scrutiny Board over the last four years.

58. Oddicombe and Meadfoot Beach Huts

The Monitoring Officer presented her report on her investigation into the governance of the decision making in connection with Oddicombe and Meadfoot beaches which had been requested at the meeting of the Council held on 26 February 2015.

The report concluded that in respect of the projects at both Meadfoot and Oddicombe beaches, it was clear that the appropriate governance procedures had not been followed given that prudential borrowing is a matter for Council to consider and this did not happen in either case before the monies (or additional monies) were spent. The officers involved had fully accepted and apologised for their errors which it was felt were genuine human errors.

The Executive Heads for Residents and Visitors Services and Tor Bay Harbour Authority also attended the meeting and answered the Board's questions.

The Board highlighted that, whilst the Monitoring Officer's recommendation was that a review of Standing Orders be undertaken with a view the incorporating additional safeguards, the report did not explain the current mechanisms for ensuring correct governance in respect of the Capital Plan and so the Board was unable to offer views on how to prevent such an issue arising again.

Resolved: (i) that the Monitoring Officer's report be accepted as an interim report;

(ii) that the Monitoring Officer undertake a review of Standing Orders in respect of the Capital Budget with a view to incorporating additional safeguards to ensure the good governance of the same and the proposals be discussed with the Mayor and Group Leaders following the Local Elections; and

(iii) that the Monitoring Officer report back to the Overview and Scrutiny Board following her review of Standing Orders with her proposals for any additional safeguards.

59. Overview and Scrutiny Annual Report

Resolved: that the Overview and Scrutiny Board's Annual Report be adopted and forwarded to the Annual Meeting of the Council for consideration.

Chairman

Reasons for Call-In

Policy Development Groups, Transport Working Party and Health and Wellbeing Board

- The report dated 26th February 2015 – Principles of Overview and Scrutiny (an independent report assisted by the Centre for Public Scrutiny) has been rejected by the Mayor. This is in spite of the fact that it was passed by an overwhelming majority of the full Council. Following the independent report and the election, officers have worked hard to try and find how the recommendation could be integrated into the way the Council and Mayor make their decisions. It was subsequently, after the election, discussed at a Majority Group meeting with agreement that the findings on the report and officer recommendation should be implemented. Having been passed at full Council and had the approval of the majority of Councillors following the election the new arrangements should be returned for debate by all Members if rejected by the Mayor.
- In the report taken to Council it states:- ‘The directly elected Mayor holds all executive powers – it is, therefore, important for credibility and reputation of the Council’s governance system that there are transparent checks and balances.’ The new PDG system gives even more power to the Mayor: there is a heavy presence of Executive Leads on the PDGs, the agendas will be set with no input from O&S, the independent advice is to have O&S chairing the meetings. The decision is that the new arrangements will last for four years with no period for review.
- In the Decision- Making Route there is no consultation with the Majority Group or Group Leaders. There is no mention of how a decision is fast tracked – who makes that decision, again no mention of involvement of O&S in that decision. In previous fast tracked flow charts there has been consultation involved, this has now been omitted.
- The Centre for Public Scrutiny calls for all Members to work together for the good of the Council. We do not agree that the new PDGs are the best way forward to achieve this and that there are alternatives that need to be agreed by all Members..

Agenda Item 7

Appendix 1

Record of Decisions

Establishment of Policy Development Groups, Transport Working Party and Health and Wellbeing Board

Decision Taker

Mayor on 04 June 2015

Decision

- (i) that the following be established for 2015/2016 to 2018/2019 with membership and terms of reference as set out in Appendix 1 to this Record of Decision;
 - Joint Commissioning Policy Development Group;
 - Joint Operations Policy Development Group;
 - Transport Working Party; and
 - Health and Wellbeing Board;
- (ii) that the Conservative Group Leader be requested to nominate Conservative Members to fill the remaining places on the 2 Policy Development Groups and the Transport Working Party and advise the Governance Support Manager in writing of his nominations;
- (iii) that the Policy Development Groups operate in accordance with the working arrangements set out in Appendix 2 to this Record of Decision;
- (iv) that the Decision-Making Route set out at Appendix 3 to this Record of Decision be approved; and
- (v) that the following Member Champions be appointed from 2015 to 2019:
 - Armed Forces Champion – Councillor Amil;
 - Youth Trust Champion – Councillor O'Dwyer;
 - Early Years Group Champion – Councillor Stubley; and
 - Corporate Parenting Champion – Councillor Stocks.

Reason for the Decision

It is necessary for the Mayor to establish executive-side working parties and a Health and Wellbeing Board each Municipal Year. The Mayor can choose to set up these working parties for a longer period of time (e.g. to coincide with the current term of office for Councillors).

Implementation

This decision will come into force and may be implemented on Friday, 12 June 2015 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

Information

It is necessary for the Mayor to review executive-side working parties to make sure that they are still required and to establish those that need to continue each Municipal Year. Due to the requirement for senior councillors to take a lead role and the need for cross party

representation the Policy Development Groups are not politically balanced. The proposed membership and terms of reference of all the working parties and informal groups are set out at Appendix 1 to this Record of Decision. The Mayor has also chosen to appoint a number of Member Champions for the next four years.

Alternative Options considered and rejected at the time of the decision

None

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

4 June 2015

Signed: _____
Mayor of Torbay

Date: 4 June 2015

Membership and Terms of Reference

Joint Commissioning Policy Development Group

Membership

Core Members:

- Executive Lead for Children – Mayor Oliver
- Executive Lead for Health and Wellbeing – Councillor Mills
- Executive Lead for Adults – Councillor Parrott
- Executive Lead for Planning, Transport and Housing – Councillor King
- Conservative (3) – to be nominated by the Conservative Group Leader
- Liberal Democrat (1) – Councillor Steve Darling
- Independent (1) – Councillor Stockman
- Scrutiny Lead for Joint Commissioning – Children and Adults – Councillor Barnby
- Scrutiny Lead for Joint Commissioning – Health and Wellbeing and Public Health – Councillor Bent

Standing Invitees:

- All other Councillors

Terms of Reference

1. To begin early discussions on developing policy in key areas (notably, but not exclusively to those areas that are covered by the Council's Budget and Policy Framework, or are considered Key Decisions).
2. To consider challenges identified for the Policy Development Group Area which may result in the Group identifying recommendations for Policy Development).
3. To advise the Mayor, Executive Leads and Council officers as to the 'what' and 'why' of policy formation considering the evidence from, for example, the Joint Strategic Needs Assessment, previous consultations and the views of community and/or user groups.
4. To advise the Mayor, Executive Leads and Council officers as to the risk appetite for doing things differently, any limitations that should be placed on policy/delivery options (the 'how') and any particular views on standards/targets to be achieved.
5. To review and offer opinions/guidance on the policy/development options put forward by officers to assist in the development of Equality Impact Assessments and other formal papers prior to the decision making process.
6. To consider the most appropriate form of wider consultation and review the outcomes of consultation.
7. To receive and make recommendations to the Mayor on Overview and Scrutiny reports.
8. To feedback to Councillors and receive feedback from Councillors.

Joint Operations Policy Development Group

Membership

Core Members:

- Executive Lead for Tourism, Culture and Harbours – Councillor Amil
- Executive Lead for Community – Councillor Excell
- Executive Lead for Customer Services – Councillor Morris
- Executive Lead for Corporate Services – Councillor Lang
- Executive Lead for Business – Councillor Haddock
- Executive Lead for Finance and Regeneration – Mayor Oliver
- Executive Lead for Planning, Transport and Housing – Councillor King
- Conservative (3) – to be nominated by the Conservative Group Leader
- Liberal Democrat (1) – Councillor Mandy Darling
- Independent (1) – Councillor Ellery
- Scrutiny Lead for Joint Operations – Councillor Stocks

Standing Invitees:

- All other Councillors

Terms of Reference

1. To begin early discussions on developing policy in key areas (notably, but not exclusively to those areas that are covered by the Council's Budget and Policy Framework, or are considered Key Decisions).
2. To consider challenges identified for the Policy Development Group Area which may result in the Group identifying recommendations for Policy Development).
3. To advise the Mayor, Executive Leads and Council officers as to the 'what' and 'why' of policy formation considering the evidence from, for example, the Joint Strategic Needs Assessment, previous consultations and the views of community and/or user groups.
4. To advise the Mayor, Executive Leads and Council officers as to the risk appetite for doing things differently, any limitations that should be placed on policy/delivery options (the 'how') and any particular views on standards/targets to be achieved.
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7. To receive and make recommendations to the Mayor on Overview and Scrutiny reports.
8. To feedback to Councillors and receive feedback from Councillors.

Transport Working Party

Membership

Core Members (7):

- Conservatives (x4) (including the Deputy Mayor and Executive Lead for Health and Wellbeing, the Executive Lead for Community Services and the Executive Lead Planning, Transport and Housing) Councillors Excell, King and Mills plus one Member to be nominated by the Conservative Group Leader;
- Liberal Democrat (x2) – Councillors Darling and Doggett ; and
- Independent (1) – Councillor Morey

Terms of Reference

1. To consider current and emerging highways and transportation issues.

<p>Health and Wellbeing Board</p> <p>Terms of Reference:</p> <ol style="list-style-type: none"> 1. To encourage those who arrange for the provision of any health or social care services in the area to work in an integrated manner for the purpose of advancing the health and wellbeing of the people in its area. 2. To provide advice, assistance and support, as it thinks appropriate for the purpose of encouraging the making of arrangements under Section 75 (arrangements between NHS bodies and local authorities) of the National Health Service Act 2006 in connection with the provision of such services. 3. To encourage those who arrange for the provision of health-related services in its area to work closely with the Health and Wellbeing Board. 4. To encourage those who arrange for the provision of any health or social care services in its area and those who arrange for the provision of any health-related services in its area to work closely together. 5. To exercise the functions of Torbay Council and South Devon and Torbay Clinical Commissioning Group under sections 116 (health and social care: joint strategic needs assessments) and 116A (health and social care: joint health and wellbeing strategy) of the Local Government and Public Involvement in Health Act 2007, namely: <ul style="list-style-type: none"> • Preparation of a Joint Strategic Needs Assessment; and • Preparation of a Joint Health and Wellbeing Strategy. 6. To assess needs for pharmaceutical services in Torbay and publish a statement of its first assessment and of any revised assessment. 	<p>Up to five members of the Council (to be appointed by the Mayor);</p> <p>Director of Adult Social Services Director of Children’s Services Director of Public Health A representative of Healthwatch Torbay A representative of South Devon and Torbay Clinical Commissioning Group</p> <p>Conservative (3): Executive Lead for Children – Mayor Oliver; Executive Lead for Health and Wellbeing - Councillor Mills; and Executive Lead for Adults - Councillor Parrott</p> <p>Liberal Democrat (1) – Councillor Doggett</p> <p>Independent Group (1) – Councillor Stockman</p>
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| <ol style="list-style-type: none">7. To provide the Council its opinion on whether the local authority is discharging its duty under section 116B (duty to have regard to assessment and strategies) of the Local Government and Public Involvement in Health Act 2007.8. To exercise the statutory duty to promote co-operation between Torbay Council, its relevant partners and other partners or bodies as the Council considers appropriate, to improve the well-being of children in the area.9. To consider the annual report of the Torbay Safeguarding Children's Board.10. To make any decisions that legislation or government guidance reserves to Health and Wellbeing Board's and/or proposes that Health and Wellbeing Boards would be appropriate forum for such decisions to be made. | |
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Policy Development Groups Working Arrangements

Introduction and Purpose

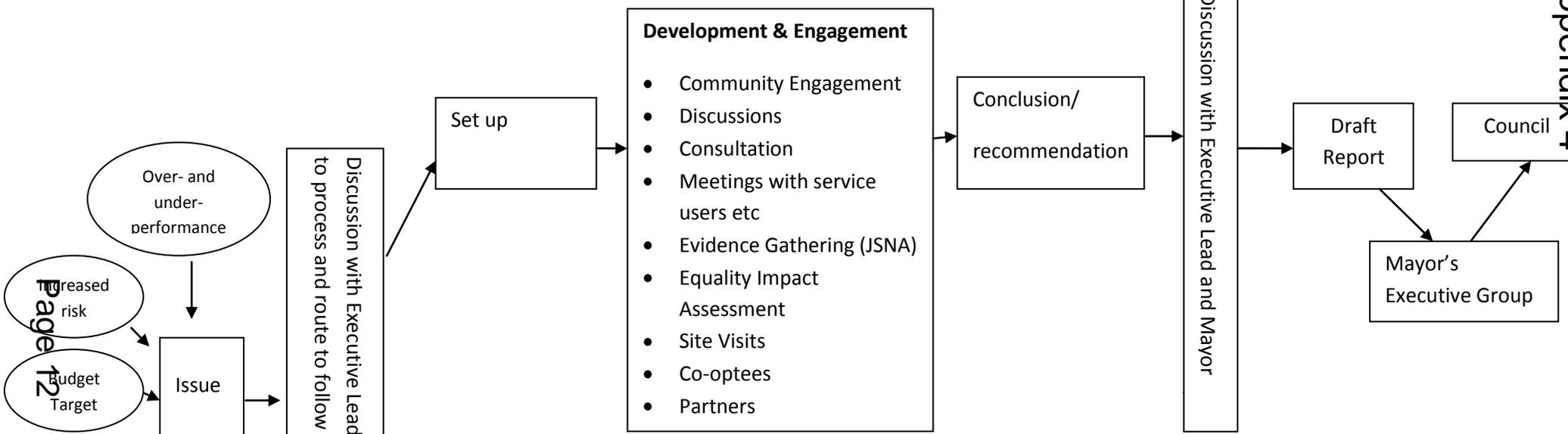
Policy Development Groups (PDGs) are an integral part of the Council's decision making process and were introduced in 2011 following a request from the Mayor to ensure inclusivity in decision-making. The purpose of PDGs is to enable early discussions on developing policy in key areas. This report will help members and officers understand how PDGs operate and what PDGs are responsible for.

Operational guidance

1. PDGs are not decision making bodies and do not have the authority to make decisions.
2. PDGs are not responsible for approving reports before a decision is made.
3. PDGs will have a crucial role in assisting in the development of policy within the Council. Whilst the Overview and Scrutiny Board terms of reference will continue to include a role in developing policy, its primary focus will be on holding the Mayor to account and undertaking its statutory functions.
4. Members who sit on PDGs and the Overview and Scrutiny Board are not prohibited from scrutinising issues that they have discussed at PDGs.
5. PDGs enable issues to be discussed informally before they are fully developed in order to assist officers when preparing reports on which decisions will ultimately be made by the Mayor or the Council.
6. Although PDGs are not decision making bodies they are part of the decision making process and will usually consider issues before they are put on the Forward Plan.
7. It is not necessary for all issues to go through a PDG before a final decision is made on it.
8. Each PDG will have a nominated chair. The agendas for the PDGs will be set by the chair, in consultation with the Mayor, Executive Leads and the Executive Director, ensuring a focus on those issues of critical importance to the Council moving forward.
9. It is up to each PDG whether members of the public and the press are invited to attend their meetings on specific issues and taking into account of advice from the Monitoring Officer.
10. PDGs will be supported by the Corporate Support Team and the Governance Support Team alongside their role of working with the Senior Leadership Team to ensure that policy is developed in such a way that contributes towards the good governance of the Council.
11. Following presentation of an issue all members of the PDG (councillors and officers) will be provided the opportunity to ask questions of the person presenting. Following this all members will be invited to provide their opinions on the issue to the rest of the PDG where they wish to do so.
12. Following the above it is at the discretion of the Chair whether he/she asks for a vote on the recommendations arising from the discussions.

Decision-Making Route

Route 1 - Policy Development Process



Route 2 - Fast Track Process for Urgent Decisions



Scrutiny Development Area 2014/15 – Transformation and Commissioning

The principles of overview and scrutiny in Torbay



1. Background

- 1.1 In October 2014, Torbay Council was selected as one of 12 councils as a Scrutiny Development Area by the Centre of Public Scrutiny (CfPS). The aim of the programme was to look at:
- How governance arrangements could be used to deliver improvements to local services
 - How overview and scrutiny, in particular, can be used to improve plans for major service change and significant transformations
 - How overview and scrutiny can be used to provide assurance, transparency and accountability in arrangements with external/arms length companies
- 1.2 As a Scrutiny Development Area, the Council was allocated an Expert Advisor from the CfPS who provided formal support. There were also opportunities for shared learning with other councils through Knowledge Hub and webinars/teleconferencing.

Reasons for becoming a Scrutiny Development Area

- 1.3 In applying to be a Scrutiny Development Area, it was felt that the role of overview and scrutiny within the current governance arrangements was not fully understood and not fully utilised, especially given that Torbay is a Mayoral authority. Further it was recognised that the Council has a small number of elected members with a wide range of demands placed on their time.
- 1.4 As with all other Local Authorities it was also recognised that there are ongoing changes to how services are delivered as a result of changes to legislation and changes in levels of funding. The public's expectation of what the Council should be delivering does not always match what can be done within limited and reducing resources and the community needs to be engaged in finding solutions.

Aims and Objectives

- 1.5 Becoming a Scrutiny Development Area would enable officers and the CfPS to work with Executive and Non-Executive members (from all groups) to:
- Undertake a high level evaluation of overview and scrutiny
 - Agree how overview and scrutiny should operate given the challenges the Council faces
 - Determine how the Council can better harness the skills of non-executive members to enable them to make a more meaningful contribution to the work of the Council

- 1.6 The work would provide a framework for a wider review of the governance structure to create a set of principles which will inform the induction process following the elections in May 2015.
- 1.7 The project plan agreed between the Council and the CfPS set out the objectives of the work as:
- To identify and act on those areas where overview and scrutiny can add most value on transformation within the Council's existing governance arrangements;
 - To identify ways in which a broader group of members can be actively involved in the Council's plans for transformation;
 - To identify ways in which the community can be actively involved in the Council's plans for transformation.
 - To provide a framework for a wider review of the governance structure and create a set of principles which will inform the induction process following the elections in May 2015.
- 1.8 It is accepted that non-executive members can have greater influence the earlier they are involved in policy development, therefore an aim of the project was to see how a transformation programme can have the involvement of a wider group of councillors.

Methodology

- 1.9 The 'Accountability Works for You' framework was used to carry out an initial baseline assessment of overview and scrutiny at Torbay, alongside the Council's broader approach to corporate governance. A questionnaire was developed using the framework and all councillors and the Senior Leadership Team were asked to complete it and share their views. A response rate of 44% was achieved and the findings are attached at Appendix 1.
- 1.10 The Overview and Scrutiny Lead Officer and the Expert Advisor met with the Mayor and a range of councillors together with the Executive Director, the Director of Adult Services, the Monitoring Officer and the Governance Support Manager. These discussions included an exploration of the existing arrangements within the Council in transforming services and consideration of where future opportunities for member involvement might lie. A meeting was also held with the Lead Officer and the Community Development Manager of the Community Development Trust to discuss how the community could be better engaged in the transformation of Council services.
- 1.11 A discussion seminar was held for all members of the Council whereby councillors shared their views on the current governance arrangements and on the emerging structure for the future operation of overview and scrutiny. Chaired by the Overview and Scrutiny Co-ordinator, a third of the councillors attended this seminar including Executive Lead Members, Scrutiny Lead Members and members of the Overview and Scrutiny Board plus some councillors who do not sit on the Board.
- 1.12 Discussions were also held with the Senior Leadership Team on how overview and scrutiny fits within the overall governance arrangements of the Council including the linkages with the Corporate Plan and Policy Framework, performance and risk management and budget setting.

2. Baseline Information

Governance Structure

- 2.1 Torbay Council has a directly elected mayor. He has retained all of his decision-making powers. Whilst he has appointed eight Executive Lead Members, they all have an advisory role without any delegated responsibility. There are no formal executive meetings, with the Mayor taking all of his decisions at meetings of the Council, taking account of the recommendations of the Council on those issues delegated to him.
- 2.2 Following the last election and at the request of the Mayor, Policy Development Groups were introduced as part of the Council's governance arrangements. Their purpose was to ensure inclusivity in decision making and to enable early discussions in developing policy in key areas. The (then) Monitoring Officer produced a Guidance Note on how Policy Development Groups (PDGs) should operate although it was recognised that, as informal bodies, it was up to members of each PDG as to how that PDG would operate. Over the past four years, the PDGs have been chaired by the relevant Executive Lead.
- 2.3 The Council has an Overview and Scrutiny Board and a Health Scrutiny Board (which is established as a sub-committee of the main board). The Board has the ability to establish task-and-finish review panels but, in recent years, these have been few and far between. The one exception is the Priorities and Resources Review Panel which is (normally) made up of the same members of the Overview and Scrutiny Board and which scrutinises the Mayor's budget proposals.
- 2.4 The Council has appointed an Overview and Scrutiny Co-ordinator and four Scrutiny Lead Members who each receive a Special Responsibility Allowance. The Co-ordinator chairs the meetings of the Overview and Scrutiny Board and the Health Scrutiny Lead chairs the Health Scrutiny Board. The Job Description for the Overview and Scrutiny Leads sets out the purpose of the role as:
- "To lead the effective overview and scrutiny of policies, budget, strategies and service delivery within the area(s) for which they have particular responsibility as Scrutiny Lead."
- 2.5 The areas of responsibility for each Overview and Scrutiny Lead do not match the areas of responsibility for the Executive Leads which in turn do not match the areas of responsibility for the Directors and Executive Heads.

Transformation

- 2.6 As an organisation Torbay Council has experienced significant change in recent years. Transformation is now business as usual and there is no formal transformation programme or transformation lead officer.
- 2.7 Some examples of the current changes which are underway are:
- Place Directorate – Future Delivery Project: Making changes to how services are delivered (either within the Council or through arms length organisations)
 - Creation of an Integrated Care Organisation: Adult Social Care has been delivered through an integrated "care trust" for many years. The NHS reforms and the need for

health trusts to become foundation trusts has led to a solution in Torbay whereby the acute Foundation Trust will acquire the community trust creating a vertically integrated care organisation which will provide community and acute care as well as adult social care. This also links with Torbay and South Devon's status as a Pioneer for integrated health and social care.

- Revenue Budget savings programme: Like other authorities, the Council has had to find significant financial savings over recent years which is inevitably leading to service change.
- Children's Services Five Year Cost Reduction Plan: Children's Services' budget has been overspent for a number of years for a range of issues stemming from increased demand for services. An invest-to-save plan has now been agreed and needs to be implemented.
- Appointment of the Director of Public Health as a joint appointment with the Clinical Commissioning Group.

3. Context

3.1 No two Councils are the same and there is no common template for overview and scrutiny. Torbay Council is not Plymouth City Council, Taunton Deane Council or Bristol City Council for that matter. Each has its own history and culture and any governance proposals need to recognise this. Similarly, there is no one size fits all model for overview and scrutiny. But, what is apparent nationally is that those councils where overview and scrutiny works best are where it is constructively involved in helping to shape policy as well as holding to account.

3.2 The key characteristics of Torbay Council which need to be taken into account include:

- Torbay is a comparatively small Unitary Council with an Elected Mayor. There are just sixteen English councils with directly elected Mayors including the Mayor of London.
- The directly elected Mayor holds all executive powers – it is, therefore, important for the credibility and reputation of the Council's governance system that there are transparent checks and balances in place.
- For the range of responsibilities that a unitary council has, Torbay has a comparatively small number of Councillors – 36. Their purposeful engagement in council business is therefore paramount.
- As with other councils, Torbay Council has to cope with significant reductions to its budget. It is important that proposals recognise these changed circumstances and, wherever possible, complement rather than frustrate their implementation.

3.3 The timing of this review is also a salient consideration. With elections to take place shortly it would be inappropriate to rush through changes for what will be a new council. Rather, what needs to be agreed is a set of principles which can then provide the framework for changes made after the election.

4. Findings

4.1 In the day-to-day running of the Authority, the Mayor makes all of the key decisions within the Budget and Policy Framework and officers make all the operational decisions. The role of the other 36 councillors needs to be defined – they are there to represent their constituents but they also want to be part of the decision making process, they want to feel more involved. In making his decisions at meetings of the Council and in establishing the Policy Development Groups, the Mayor wanted to ensure inclusivity of decision making across the Council. There is an eagerness and willingness from all of the members who have given their views during this piece of work to develop policy, input into service change and work together to transform Torbay Council in light of the challenges that local government faces at the current time.

4.2 The fact that the Mayor does not hold “cabinet” meetings means that the role of overview and scrutiny should be enhanced. However, many members feel that the role has been marginalised, that it is not valued and that it is dominated by the Administration.

Timeliness

4.3 If there is one word that best captures the sentiments of the views expressed by non-executive members it is timeliness. Too often it was felt that issues came to overview and scrutiny too late in the day to make an effective contribution. It was felt that if matters truly came before overview and scrutiny at the formative stage then there would be much better interactions and outcomes.

4.4 Overview and scrutiny has two purposes: to hold decision makers to account (scrutiny) and to assist in the development of policy (overview). In order for overview and scrutiny to be effective in assisting in the development of policy, the timeliness of the involvement is crucial. The only way to influence decision making is to do it upstream. Nationally, very few call-ins change decisions once they have been made. Similarly, trying to influence the decision one week before the decision is due to be made has not proved to be successful in Torbay.

4.5 Members and officers need to be as open as possible with each other much earlier in the transformation process. This would enable non-executive members to contribute to policy development.

4.6 Much earlier public engagement would also be welcomed by the Community Development Trust in order for their Trustees to reach out for views within their sectors.

4.7 Whilst the Overview and Scrutiny Board currently review the Forward Plan on a monthly basis to determine which issues it would like to review before a decision is made, the recent change in legislation and therefore current practice means that proposed decisions are only included in the Plan 28 days before the decision is due to be made.

4.8 The availability of reports to the Overview and Scrutiny Board was a theme running throughout the high level evaluation. Reports are often listed as “to follow” with little time for consideration. Equally reports tend to be submitted to the Overview and Scrutiny Board one week before the meeting of the Council at which the decision is due to be made. This does not enable the Overview and Scrutiny Board to gather as much information or speak to

as many people as it would like in order to put together an evidence-based report and recommendations.

Issues which matter

- 4.9 Thematic reviews have worked well in the past as the Overview and Scrutiny Board has been able to properly scope the review, identify appropriate sources of information, undertake site visits and hear the views of service users and the community at large. In this way the reviews build traction and are more likely to lead to recommendations which are accepted and implemented.
- 4.10 There is a view that, in the past, there have been difficulties around producing a coherent Forward Plan which makes it difficult for the Overview and Scrutiny Board to set a “good” work programme. There is a need to ensure that the work of overview and scrutiny focuses on the right things, at the right time, and with the right speed. The choice of topic is critical especially with limited resources.
- 4.11 Whilst the Overview and Scrutiny Board should be the final arbiter of its Work Programme, dialogue with Executive Leads would help focus discussions. Also the Senior Leadership Team should also be able to influence the Work Programme. SLT have a key role in ensuring that the Work Programme reflects issues arising from the Corporate Plan, the Policy Framework and performance and risk management information.

Good scrutineers

- 4.12 In terms of numbers of members, Torbay Council is one of the smallest unitary authorities in England. The number of executive members appointed is set by law as between two and nine. The power to appoint executive members rests with the Mayor. The Mayor has appointed nine Executive Leads. Given the full range of other functions that a unitary authority discharges, the non-executive councillors have many pulls on their time.
- 4.13 Successful overview and scrutiny depends on enthusiastic and committed members. The skills required to be an overview and scrutiny member are the same as those required to be an executive member. There is a need to read papers, to listen to the answers given, to ask the follow up questions, to assess the range of information available and to make conclusions and recommendations which can influence decision makers.
- 4.14 It is questionable whether the two roles are seen to have parity of esteem at Torbay Council.

Roles and responsibilities

- 4.15 Job descriptions for Scrutiny Lead Members are included within the Constitution with those Members being expected to chair sub-committees and review panels which fall within their remit. However, with the exception of Health, there are no sub-committees established and very few review panels. This brings into question what Scrutiny Lead Members do that is different from the other members on the Overview and Scrutiny Board.
- 4.16 The current job descriptions are too long and do not specify what the Council’s expectations are in making such appointments, the skills required to carry out the role effectively or how the performance of the Lead Members are managed. The role of the Overview and Scrutiny Co-ordinator in managing the performance of Scrutiny Lead Members should be clarified.

- 4.17 Scrutiny Lead Members need to have a good relationship with the relevant Executive Leads and a mirroring of areas of responsibility may help to improve these relationships. Similarly Scrutiny Lead Members also need a good relationship with the appropriate Directors and Executive Heads.
- 4.18 In considering how the relationship between Executive Lead Member, Scrutiny Lead Member, Director and Executive Head works and can be improved, consideration should be given to the need for Member Champions and whether members are being asked to take on too many roles. Likewise, officers need clarity about the level and type of member input required when developing policy.

The Overview and Scrutiny Board

- 4.19 There is an acceptance that overview and scrutiny would add more value by assisting in the development of policy at its early stages. In order to do this overview and scrutiny must have the ability to act quickly and flexibly. Operating as a task-and-finish group is more conducive to this type of work rather than operating as a committee.
- 4.20 Given the limited resources both in terms of members' time and officer support, the role of the Overview and Scrutiny Board has been considered. It has statutory responsibilities for scrutiny of:
- Health services
 - Community Safety Partnership
 - Flooding and coastal defence
- 4.21 The Francis Report makes it very clear that health scrutiny is an important statutory duty of the local authority. Currently health scrutiny is seen as even-handed and non-confrontational although there is a need for a more strategic focus. However, the creation of the new Integrated Care Organisation, together with the recent NHS reforms including the establishment of the Health and Wellbeing Board and Local Healthwatch means that the roles and inter-relationships within the local health landscape need to be re-stated and fully understood.
- 4.22 The Senior Leadership Team is currently reviewing the performance and risk framework of the Authority. The role of members in challenging performance and risk needs to be clarified. The Overview and Scrutiny Board currently receive quarterly budget monitoring reports and have in the past received quarterly performance information. Utilising performance and risk information from the emerging framework would enable the Board to focus its questioning on areas of concern when holding the Mayor to account.
- 4.23 It is suggested that the Board hold scheduled meetings once a quarter with additional meetings held to deal with matters arising from the Board's statutory duties and any call-ins.

Policy Development Groups and Priorities and Resources Review Panel

- 4.24 In the discussions held with both councillors and officers, the role of the Policy Development Groups (PDGs) was not universally understood. There were a range of views on how successful they have been but there was a general acceptance that they have "lost their way" in the four years since they were introduced. They can be seen as a way for officers to

gain the buy-in of members before decisions are made, to keep members briefed and to build consensus in a private forum.

- 4.25 PDGs could evolve in a positive way especially through engagement with partners and the third sector. However, in order for PDGs to be more effective they need to link more closely with the strategic direction of the Authority.
- 4.26 The Overview and Scrutiny Board, through its Priorities and Resources Review Panel has acted as a critical friend to the Mayor and Executive Lead Members during the budget setting process over a number of years. Certainly it has been the main focus of work over the past 18 months with some degree of success and a recognition that the process has significantly improved over recent years.
- 4.27 Given that the focus of work over the next four years will need to be about determining the Authority's priorities and determining the allocation of resources in line with those priorities, the Priorities and Resources Review Panel and the Policy Development Groups could evolve into Priority and Resources Panels.
- 4.28 Priorities and Resources Panels can be established as standing panels with set memberships which undertake task-and-finish pieces of work. Given that the Executive Lead Members are advisory only, there appears to be no constitutional reason why Executive Lead Members, Scrutiny Lead Members and other non-executive councillors cannot all sit on the Panels and work together on developing policy, reviewing businesses cases for transformation projects and gathering evidence to support service change.

The support structure

- 4.29 Torbay Council continues to have dedicated officer support for overview and scrutiny albeit somewhat reduced. The Overview and Scrutiny Team sit within the wider Business Services section which has recently come under the management of the Executive Head – Commercial Services who is also the Council's Monitoring Officer. The Business Services section now mainly comprises the Policy, Performance and Review Team whose role includes performance and risk management, consultation and equalities. The Team provide support to Executive Heads in developing proposals for transformation and service change as a result of changes in policy, legislation and financial constraints.
- 4.30 The Overview and Scrutiny Team and the Policy, Performance and Review Team have worked closely together for a number of years. This close working has been cemented over the past 12 months with the two teams effectively merging as a Corporate Support Team. Officers from the team will be supporting SLT with the ongoing transformation agenda and it is appropriate that they also provide support to the Priorities and Resources Panels.

5. The Principles

- 5.1 The Council as a whole, and therefore overview and scrutiny, need to focus on the issues that really matter. There are no longer any easy decisions to make. The luxury of looking at the more marginal issues has long passed. It is important that there is an "all Council" approach to tackling the challenges now being faced.
- 5.2 "Holding to account" must continue as a vital role of overview and scrutiny. But "policy development" is of equal importance. And national experience has shown that this is where the contribution of the non-executive members can be most effective.

- 5.3 The Forward Plan should be seen as a key tool for managing the decision making process throughout the Authority. There needs to be more informal discussions about what is coming forward for decision in the coming months.
- 5.4 Overview and scrutiny should be seen as an important element in delivering good, sound decisions. The relationship between overview and scrutiny and the executive should not be adversarial, but rather of seeking to complement one another.
- 5.5 There should be the ability for all councillors to have the opportunity to help shape policy decisions at an early stage.

6. The Proposal

- 6.1 Policy Development Groups be re-constituted as Priorities and Resources Panels chaired by the appropriate Overview and Scrutiny Lead Member.
- 6.2 As informal, advisory bodies, the Priorities and Resources Panel can comprise of both non-executive members and Executive Lead Members. The involvement of the latter presents no conflict of interest as they have a purely advisory role to the Mayor.
- 6.3 Again as informal bodies, the Priorities and Resources Panels can carry out their work both in public and in private according to the nature of the issues being considered. The presumption should be that they will conduct as much of their work as possible in public.
- 6.4 The Work Programme of the Priorities and Resources Panels will be determined in consultation with the Mayor, Executive Leads, Scrutiny Leads and Executive Director ensuring that the focus is on those issues of critical importance to the Council moving forward.
- 6.5 The Priorities and Resources Panels will use a range of methods such as community engagement, public consultation, Equality Impact Assessments and co-opted members in determining its recommendations on the issues under review.
- 6.6 The Priorities and Resources Panels will be supported by officers within the current Policy, Performance and Review Team which incorporates scrutiny support officers.
- 6.7 The Scrutiny Lead Members will have the authority to “sign-off” reports of their Panels prior to the reports being forwarded to the Mayor (or other appropriate decision maker).
- 6.8 The Overview and Scrutiny Board will meet on at least a quarterly basis to formally hold the Mayor to account (utilising the performance and risk management information) and to carry out the statutory scrutiny duties of the Council.
- 6.9 These changes should provide the framework for the earlier engagement of non-executive members in the shaping of policy options with the details to be settled by the new Council after the local elections in May.

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January 2015

Theme 1: Transparency

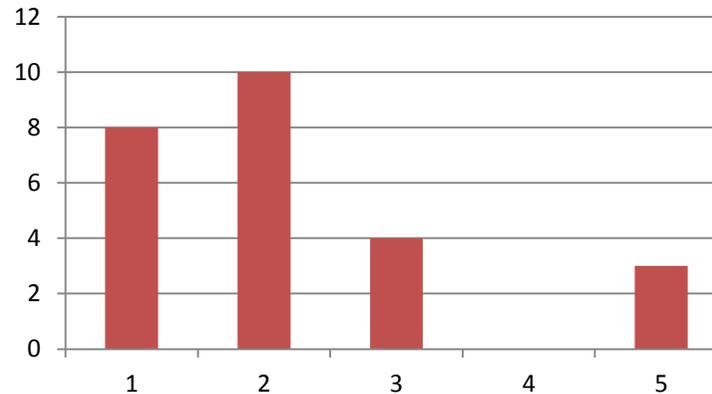
Putting in place an open, transparent and accurate forward planning process for decision-making

How are non-executive councillors involved in influencing major decisions, and in considering and evaluating performance, finance and risk information?

Negative culture:

There is a “process” for such involvement but it doesn’t generally result in any big changes to key decisions (e.g. pre-scrutiny a couple of weeks before a decision is made).

Performance information and finance information comes to scrutiny in quarterly reports which are discussed at committee with little outcome; there is little to no consideration of risk information.



Positive culture:

Decision-makers and those holding them to account have a dialogue about forthcoming decisions and there is a mutual understanding of how holding decisions to account adds value.

Performance, finance and risk issues are considered by scrutiny committees “by exception”.

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Comments:

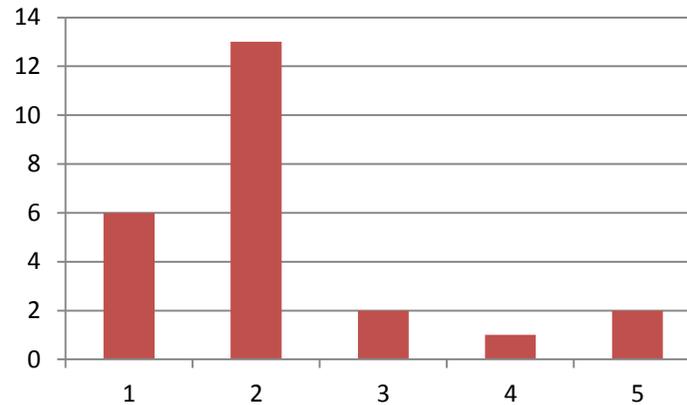
- There should be a central role for overview and scrutiny to drive strategic actions
- Culture of secrecy from the executive
- Issues brought to members for decision very late in the process
- Reports submitted late to overview and scrutiny and then only days before a final decision is planned at Council
- Information is provided too close to the meeting of the Council which does not permit full “scrutiny”
- Little dialogue between decision makers and scrutineers
- Executive engagement with overview and scrutiny is very poor
- Reports from overview and scrutiny to the Mayor and Council are often weak
- There is no consultation outside the administration group to enable councillors to engage in issues which affect their ward
- Ad-hoc involvement of overview and scrutiny
- Role of overview and scrutiny is held in contempt
- Discussion of the merits of a proposal is vital to the decision making process
- We need to bridge the gap between officers and members
- Overview and scrutiny will not work with a mayoral system if only lip service is paid to the discussions

Respondents were asked to assess the culture at Torbay Council in relation to overview and scrutiny on a scale of 1 (Negative) to 5 (Positive). The Accountability Works for You framework provided examples of Negative and Positive Cultures. The graphs show the number of respondents and at which point on the scale they ranked the current culture.

What steps are taken to ensure that decisions are made in such a way that the community and non-executive councillors can find out about them before the decision is made?

Negative culture:

Public participation, where it does occur, is quite rigidly controlled to suit the needs of decision-makers. There is a willingness to talk to people but an unwillingness to follow through those conversations.



Positive culture:

Public participation is built into decisions in some form, and policy-making looks “iterative” – i.e. plans are refined and clarified based on views and comments received back from a range of stakeholders.

Comments:

- The system works for some issues but they aren’t necessarily the issues which will shape the future strategic direction of the Council
- Engagement takes place against a pre-determined criteria rather than as an iterative dialogue
- There is confusion about how and when decisions will be made with meetings often being delayed
- Significant public engagement takes place before decisions are made. All reports are available for the public to view.
- Consultation takes place too late when it feels like the decision has already been made
- Consultation questions are “loaded” and do not always portray the complete picture
- Meetings which are not open to the public lacks transparency.
- A return to the cabinet-style of decision making is needed
- The process feels like it is far removed from the public
- Consultation always takes place over a very short period of time
- Very little information is shared with non-executive councillors especially if they are not in the majority group
- Community know very little about decisions until they are made.
- Very little information available before the Overview and Scrutiny Board agenda is published
- All meetings should take place after 4.30 p.m. so that Council members and the public who work can take part
- The public are heard but not always listened to
- The public are rarely truly listened to. In most instances the administration has decided what it wants and ignores public input

Theme 2: Involvement

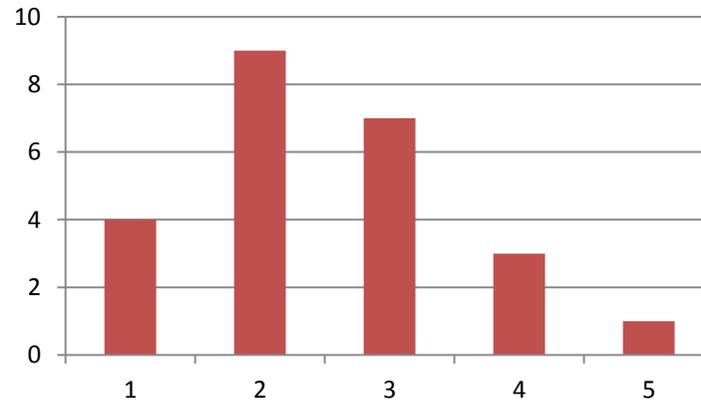
Engaging in a meaningful discussion with service users and other stakeholders about plans, policies and decisions

When overview and scrutiny gives a view or makes formal recommendations, how are these responded to?

Negative culture:

Recommendations are often “noted”, accepted without any firm commitment being given on implementation, or rejected without explanation.

Recommendations are rarely followed up because they are vague, and their object is unclear or subject to disagreement.



Positive culture:

Substantive responses are received accepting or rejecting recommendations (usually giving reasons, if the latter).

Recommendations can be followed up, because they are clear and specific.

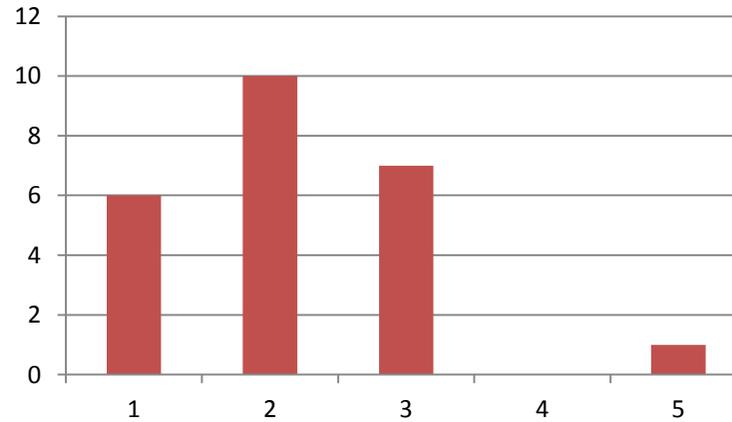
Comments:

- Generally scrutiny reports are clear but follow up and accountability have deteriorated recently
- Clear recommendations are made and good feedback is given and evidence taken
- Overview and scrutiny is not liked
- Recommendations are usually noted but a relatively small percentage are implemented
- Reasons for rejecting scrutiny recommendations are rarely given
- More notice should be given to overview and scrutiny on smaller matters
- Very little feedback is given once recommendations have been made.
- Recommendations from scrutiny only have a chance of influencing the administration if they are adopted by the Conservative group
- There is usually a negative response with recommendations being ignored

What happens when decision-makers disagree with overview and scrutiny?

Negative culture:

Disagreements happen late in the process and can be driven by a lack of awareness of the interests and work of those holding decision-makers to account. Impasses often develop.



Positive culture:

Dialogue helps to resolve many disagreements – disagreements are generally avoided in the first place by dialogue and mutual understanding of roles and responsibilities.

Comments:

- The description of a “negative culture” above is spot-on
- No dialogue takes place when decision makers disagree with overview and scrutiny
- Political interference prior to overview and scrutiny meetings has a negative effect on the quality of recommendations
- If decision makers disagree with overview and scrutiny the views are ignored
- Overview and scrutiny loses the argument
- Disagreements are often not resolved
- The decision maker goes ahead regardless of the strength of the argument

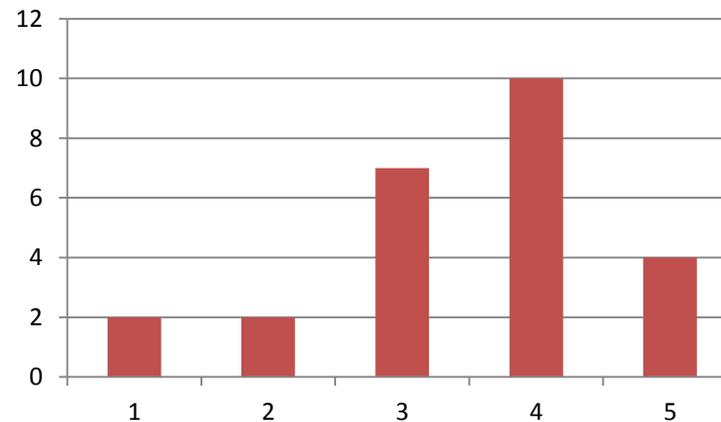
Theme 3: Accountability

Ensuring that accountability is recognised as central to our approach to improvement and performance management

How does overview and scrutiny gather, weigh and use evidence so as to focus their investigations on issues of importance to service users?

Negative culture:

There is no understanding of the different importance of different sorts of evidence – scrutiny councillors (and officers) lack confidence in evaluating and balancing evidence.



Positive culture:

Scrutiny adopts a constructively critical attitude to assessing the suitability, relevance and accuracy of evidence, recognising that different sorts of evidence should be weighted differently.

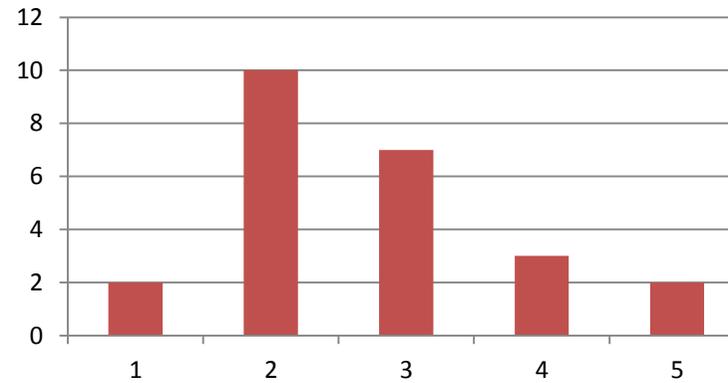
Comments:

- The councillors on overview and scrutiny are not all perceived as the most challenging and it can be seen as a bit of a backwater
- Overview and scrutiny collect relevant and accurate material before any issue is investigated, including from partners outside the authority
- Overview and scrutiny does its best to have the facts and listen and tries to be fair
- More training is required in this area
- This is better due to good quality guidance from officers.
- There now seems to be an acceptance that you need continuity of membership and engaged brains for overview and scrutiny to be effective
- Overview and scrutiny tries to obtain all the evidence and the facts in order to evaluate the issue
- The priorities and resources process is an area where overview and scrutiny provides challenge resulting in some limited success in changing priorities
- Too many reports are published too late to allow scrutiny to be effective
- Every effort is made to establish as much evidence as possible to help decision-making
- Scrutiny assesses information well but is often frustrated by the lack of information provided and the failure of the administration to enter into constructive dialogue
- Overview and scrutiny has excellent officer support in obtaining information as required, this is one aspect that works very well

What “tangible impact” do non-executive councillors contribute to the way that transformation plans develop?

Negative culture:

There is more of an interest in methodology of work carried out than its impact – outcomes are not monitored effectively and results from work are marginal or non-existent.



Positive culture:

Scrutineers can point to specific results on the ground that would not have happened but for their input – things that have resulted in real, positive change for local people.

Comments:

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- There are some issues which have been directly driven by overview and scrutiny (for example, the Children’s Services Five Year Plan) but there is no consistency
- The process could have more impact – it is not clear how the priorities of overview and scrutiny are set in relation to the Corporate Plan
- Too little resource to follow up on the outcomes of recommendations
- Previous reviews undertaken by overview and scrutiny have had an impact on policy but the current political structure mitigates against this.
- There are areas where scrutiny has achieved positive outcomes for local people but this is limited partly due to lack of resources and member training
- There is always a willingness to engage with the executive but it is usually ignored
- Except for during budget discussions, there is little tangible impact
- It is a struggle to find any impacts that come out of scrutiny