

# **Overview and Scrutiny in LB Richmond upon Thames**

## **Review of Progress**

### Introduction

- 1.1 It is now (March 2009) over a year since my review of overview and scrutiny in Richmond-on-Thames was submitted. The majority of its recommendations were approved at the start of the 2008-2009 Council year. In January 2009 I was invited to facilitate a seminar at Richmond to review the progress that had been made, and to identify those aspects of overview and scrutiny where further change was needed.
- 1.2 As part of the preparation for the seminar, which was held on March 12<sup>th</sup> 2009, I conducted telephone interviews with four of the leading members and three of the key officers involved. I also examined relevant documentation which had been drafted since my first report (including a selection of the briefing papers provided and the 2008-09 Scrutiny Newsletters).
- 1.3 I was asked to provide a short report which summarises my assessment of the progress that has been made since April 2008. In writing this report I have drawn on the wide-ranging discussions which took place at the March 12<sup>th</sup> seminar, the content of the interviews carried out prior to this event, and the documentation provided to set out my own interpretation of progress. It should be emphasised that this interpretation is inevitably more speculative in nature than the one provided in my 2008 report. I have not re-interviewed many of the

key players nor observed any recent meetings. It is important that members and officers should bear in mind the background to this report in responding to it, and they will need to use their own judgement in assessing the credibility of my conclusions. Nonetheless it is always helpful to have an external perspective on progress, particularly from someone who made the recommendation for change in the first place.

### Review of Progress

2.1 It is clear that a good deal of progress has been made in the way in which overview and scrutiny is carried out in Richmond-on-Thames since my 2008 report. I am particularly impressed by the following developments all of which were endorsed in positive terms in the interviews and at the seminar (though not necessarily unanimously)

- ❖ the initiation of meetings between the Cabinet and Overview and Scrutiny Commission.
- ❖ the overview and scrutiny chairs meetings which have been introduced
- ❖ the increased emphasis on training and development for overview and scrutiny members, including the visits to Hounslow and Merton
- ❖ improvements in the operation of Overview and Scrutiny meetings, including the use of briefing papers and the limitation in the number of items to be considered at each committee meeting to 3 or 4
- ❖ the increasing awareness of the value and use of task-and-finish groups, and the move to introduce shorter 'spotlight' reviews where appropriate
- ❖ the use of external expert witnesses to add value to the work of task-and-finish groups and committees

2.2 All these developments can be viewed in positive terms and are in line with good practice elsewhere. However, valuable though they are, they are essentially means rather than ends in themselves. They have the potential to improve the effectiveness of Overview and Scrutiny in outcome terms. In this respect, some concern was expressed at the seminar that the changes that had been introduced had made little or no difference to outcomes. It is perhaps still a little early to be able to make a balanced judgement about this issue. However it is a perfectly fair question to raise. Have the changes in process and structure actually led to better outcomes – e.g. more effective scrutiny of the Cabinet, more appropriate choice of task-and-finish topics, more policy reports which actually influence the Cabinet etc? The interview material and discussion at the seminar did suggest that there remained obstacles in the extent to which these changes could maximise their potential for delivering an effective and influential Overview and Scrutiny function.

### Issues which need further attention

3.1 The best way of characterising this situation is to say that there are still issues in the way in which Overview and Scrutiny operates in Richmond which need further attention. The two most difficult issues to deal with relate to the role of party politics in Richmond-on-Thames (as manifested in particular in the operation of the Overview and Scrutiny Commission), and the way in which the call-in system is being used. There also remain concerns (despite the undoubted improvements) about agenda planning and the identification of appropriate topics for task-and-finish groups. The effectiveness with which Cabinet

members are scrutinised is still uneven. And finally the challenge of clarifying the role of Overview and Scrutiny in partnership working (LAA, LSP's etc) requires further thought, in the light of the 2007 Local Government Act.

### Party politics and Overview and Scrutiny

3.2 Party politics, often of an adversarial nature, has long been a feature of the organisational culture of Richmond-on-Thames. In an authority where there has been change in political control at the last two elections there is an inevitability about adversarial party politics. Nor is it to be deplored – the presentation of different political priorities to a local population is the lifeblood of local democracy.

3.3 However too overt an intrusion of party politics into the work of Overview and Scrutiny can act as a major impediment to its effectiveness. In a shortly-to-be published report I have written for the Centre for Public Scrutiny<sup>1</sup> I set out a view about the inevitability of party politics in the operation of Overview and Scrutiny, but the need for it to be channelled in constructive directions

‘The Centre for Public Scrutiny is right to challenge the view that Overview and Scrutiny can or should be apolitical. Scrutiny will inevitably involve analysis and recommendations which have implications for the distribution of benefits and costs amongst the local population, and in this (broader) concept of the term, will be intrinsically ‘political’. But even using the term in a party political sense, it is unrealistic to expect

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<sup>1</sup> Party Politics and Scrutiny in Local Government. What are the Problems and How Can they be Overcome?

members of a particular political party to sideline their political values, beliefs and commitments when they attend an Overview and Scrutiny committee meeting. Nor should they be expected to – differences in values and value-based priorities and programmes are an essential ingredient of the local democratic process.

What is crucial is **how these different values are expressed** in context of Overview and Scrutiny. The CfPS have drawn attention to the detrimental impact of ‘petty party political points scoring’ (PPPP) on Overview and Scrutiny. If opposition parties genuinely wish to exert influence through scrutiny, they have to adopt a more subtle approach to the expression of their political values and priorities. There are two essential elements to such an approach; first a degree of political realism in the identification of topics for in-depth reviews; and secondly a use of evidence and logical argument in the way such topics are debated’.

### The Overview and Scrutiny Commission

3.4 It is my impression that in Richmond-on-Thames, whilst the task-and-finish groups are (almost) wholly free of adversarial party politics and in the three Scrutiny Committees this impediment rarely intrudes, there are problems of this nature in the Overview and Scrutiny Commission. The view was expressed that there were highly politicised debates about the budget and the Twickenham

Riverside Scheme, where no resolution of views was possible, and which resulted in votes being taken (with predictable consequences).

- 3.5 Whilst it is of course important that such divisive issues are debated in public arenas, the Overview and Scrutiny Commission may not be the right place to do so. The council meeting itself is a much more appropriate venue for such ‘no holds barred’ debates. Unless an Overview and Scrutiny Committee can operate in a way in which evidence is discussed in a relatively calm (although challenging) environment, it is unlikely to add value, or contribute to the probability of the most appropriate decision being reached. The implication at present in Richmond-on-Thames, given that the next local election is only a year away, is that the best use of its time would be to focus on issues which do not generate major political divisions **or** to refer such issues to a task-and-finish group where the climate of the meetings may facilitate a more productive discussion. It may also be the case that certain aspects of the budgetary process – e.g. treasury management – can usefully be discussed, but not the content of the budget itself, particularly in the light of the tradition parties have of ‘keeping their powder dry’ until the set-piece council budget debate.

#### The operation of call-in

- 3.6 The way in which the call-in provision has been used in Richmond-on-Thames over the past year has generated different reactions. Those invoking it, who have been mainly but not wholly members of the opposition group have felt their use of it to be entirely appropriate. Others, including some officers and members of the majority party group, feel the call-in system is being abused,

with no criteria used to determine whether the grounds for call-in are valid, and issues being identified which are thought to be 'too detailed' to justify a call-in (e.g. traffic schemes).

3.7 In principle, call-in is an important democratic safeguard. It is always likely to be used more by an opposition than by a majority party. As there are relatively few opportunities available to opposition parties to challenge executive decisions with which they disagree, call-in should be facilitated, rather than restricted, all other things being equal.

3.8 The problem with too permissive approach to call-in is the administrative burden it can place on the Overview and Scrutiny system. Call-ins can require special meetings and informed input (often to a relatively tight deadline) by scrutiny support officers. If the issue involved is not felt by all or most of those concerned to justify a call-in, there will inevitably be feelings of resentment. That is the essence of the current problem in Richmond-on-Thames.

3.9 Richmond-on-Thames is not unusual in not using criteria to determine whether the grounds for call-in are valid. However in some authorities, it is a requirement that criteria are used to determine whether the grounds for call-in are valid. Box 1 below provides a typical example of the kinds of justifications which should be required.

Box 1

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| <ul style="list-style-type: none"><li>- decision outside the policy/budgetary framework</li><li>- inadequate consultation relation to the decision</li></ul> |
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- relevant information not considered
- viable alternative not considered
- justification for the decision open to challenge, on the basis of evidence considered in the report

3.10 There would be value in Richmond-on-Thames if similar criteria were used.

This would facilitate the groundwork that would be required from the scrutiny officers in ensuring that an informed evidence-based debate took place at the scrutiny hearing.

3.11 In the same spirit, it would be helpful if any members intending to invoke the call-in procedure discussed with scrutiny support officers the thinking behind and justification for the call-in request. This discussion may indicate that there are other more potentially effective ways in which the concerns which lay behind the call-in could be taken up or (failing that) the discussion would provide scrutiny officers with a clearer brief for what was needed to ensure a productive debate at the call-in hearing. For similar reasons it would also be helpful if those invoking the call-in procedure made it clear what decision they would like to see substituted for the contested executive decision and why they felt this was a more appropriate decision.

3.12 It is probably not appropriate in the current political climate of Richmond-on-Thames that there should be an officer with the power to accept or reject call-in applications on the basis of the persuasiveness (or otherwise) of the reasons stated. But if there were a protocol which required the use of criteria, prior

discussion with a scrutiny support officer, and explanation and justification of the preferred alternative decision, it would remove some of the frustration felt about the operation of the current call-in process.

### Agenda planning and the identification of topics or task-and-finish groups

3.13 Despite the improvements that had clearly been made in relation to agenda planning (see 2.1 above) there remain some doubts about whether the choice of agenda items and topics for in-depth analysis (via task-and-finish groups) always reflects the best use of resources (including the valuable and scarce resources of member time). It is important that the choice of agenda items and 'in-depth' topics reflects the priorities of the councillors involved, and that they are being proactive in the identification of such items rather than primarily responding to prompts of senior officers. The scrutiny support staff can be helpful here in ensuring that there is a proper discussion of the relevance of any proposed topic and that the guidelines for the identification of in depth topics (and agenda items) are applied consistently. There is also a case for extending training and development opportunities, particularly for Overview and Scrutiny chairs, so that they can play a more confident leadership role in relation to managing agendas.

### Challenging the Cabinet

3.14 One of the key roles of Overview and Scrutiny is to hold the executive to account. There remain some doubts about how effectively this role is being carried out in Richmond-on-Thames. The increased frequency of call-in is in

theory a positive development in this respect, although there is disagreement about the appropriateness of some of the topics which have been identified (see 3.9 – 3.10 above). What would also help is a more consistent application of the recommendation in my 2008 report that the existing criteria for in-depth studies, the following should be regarded as priorities:

- ❖ relevance to the corporate priorities of LBRT, as set out in the Corporate and Community Plans
- ❖ responding to an identified area of poor/declining performance for which there are no obvious explanations
- ❖ responding to an issue of (relatively) widespread public concern, assuming that the council is in a position to influence a response (either directly or indirectly)
- ❖ issues where directors/executive members are uncertain of the best way forward, and would genuinely welcome a ‘political steer’

3.15 If Overview and Scrutiny Committees were prepared to use more often their power to summon Cabinet members to justify decisions which committees felt required further explanation, that would help to develop a stronger sense that the Cabinet was indeed being held to account.

#### Other issues

3.16 The view was expressed at the seminar (and elsewhere) that Overview and Scrutiny was still not contributing to policy development to the extent that was apparent in some other authorities. The strengthened link between Cabinet and

Overview and Scrutiny Commissions should help in this respect; indeed the 'consultation' study represents a move in the right direction

3.17 Finally, there was an acceptance that Richmond-on-Thames had not yet developed a strategy for dealing with the new challenges facing Overview and Scrutiny which relate to the new powers and responsibilities in the 2007 Act to scrutinise the performance of partners in achieving agreed LAA and Community Strategy targets. The recent report on Performance Management should provide a helpful impact here, and the allocation of lead responsibility to a member of the Overview and Scrutiny Commission is a further important step forward. However there is still a good deal of development work to be done here, which should be seen as a priority for the Overview and Scrutiny Commission over the next few months. The Centre for Public Scrutiny web site could be used as a resource to develop an understanding of how other authorities are responding to this challenge. Indeed external performance scrutiny of this nature provides a real opportunity for the Commission to develop a more cohesive and collective approach to its work which transcends party political differences.

## **Recommendations**

- (1) The code of conduct relating to public meetings of the council should be re-circulated to all members to remind them of what has been agreed is appropriate behaviour.**
- (2) The agendas for future meetings of the Overview and Scrutiny Commission should be reviewed to seek to ensure that the most productive use of the time of the Commission is achieved (see 3.6 for details).**
- (3) A statement of guidelines relating to call-in should be drafted and agreed (using the criteria in Box 1 as a basis for discussion), and that members be encouraged to refer to these criteria when considering whether to invoke the call-in process and (if they go ahead) to justify the call-in on the basis of these criteria.**
- (4) Members should be encouraged to discuss with scrutiny support officers a call-in request before proceeding with it.**
- (5) All Overview and Scrutiny committees should carry out a review of recent agendas with a view to ensuring that future agendas contain only such items where there is the potential for the committee to add value.**
- (6) Proposals for in-depth scrutiny reviews should be discussed with scrutiny support staff before being agreed, to ensure that the guidelines for topic**

**identification are applied consistently, and in a way which maximises the use of source resources.**

- (7) Training and development opportunities should be enhanced, particularly for Overview and Scrutiny chairs, so that they can play a more confident leadership role in managing agendas.**
  
- (8) The role of Cabinet members at Overview and Scrutiny should be clarified. They should be requested to attend in relation to specific agenda items, where the committee wishes to question them. This practice should be encouraged as a means of strengthening the role of Overview and Scrutiny in holding the executive to account. In other circumstances, attendance of Cabinet members should be at their discretion and as observers rather than participants.**
  
- (9) Priority should be given to developing a policy for scrutinising the performance of partners in achieving agreed LAA and Community Strategy targets. The policy should recognise the need for selectivity in this process.**