

Council Meeting

29 January 2008

REPORT OF THE DEMOCRATIC SERVICES MANAGER

AGENDA ITEM 13.1

1. FUTURE OF SCRUTINY IN BARNET – PROPOSED WORKING GROUP OF MEMBERS

As Members are aware during the 2007 a Scrutiny Improvement Programme under the ambit of the Mycroft Group took place. The climax of the programme included a report prepared by the Mycroft Group based on observations, discussions with Members and comments made by Members completing a questionnaire.

A copy of the detailed report has been sent to all Members, but a summary is attached to this item at Appendix A.

Although it must be noted that the Overview and Scrutiny Committees are able now to implement a number of the issues raised without any changes to the Constitution or existing arrangements, it is considered that there are other issues which would warrant further consideration by members.

It is therefore proposed that a politically balanced working group of seven Members be appointed to consider and make recommendations to Council at their April 2008 meeting, on the future of the Overview and Scrutiny processes in Barnet and any issues arising from the Mycroft Group report.

The Group Secretaries have been advised of this proposal.

RECOMMEND –

- 1. That a politically balanced working group consisting of seven Members be appointed to consider and make recommendations to the Council at their April 2008 meeting on the future of the Overview and Scrutiny processes in Barnet and any issues arising from the Mycroft Group Report.**
- 2. That the Council appoint the Members and a Chairman.**
- 3. That the Democratic Services Manager be instructed to make the arrangements.**

2. PROPOSED CALENDAR OF MEETINGS 2008/09:

A draft Calendar of meetings for 2008/9 is attached at Appendix B.

In accordance with the Constitution, the dates of meetings of the Executive are matters for the Leader, but these dates are included in the Calendar for information and completeness.

The dates proposed for Ordinary Meetings of the Council will be recommended for approval by the Council at their Annual Meeting, in accordance with Constitutional requirements.

The Calendar is based on the existing arrangements which are in accordance with Council's previous instructions and include:

- A 6-weekly cycle (4-weekly for Planning and Environment and planning sub-committees) and follows on from the existing Calendar.
- Some of the existing dates between the Annual Meeting of 15 May 2007 and August;
- Meetings that require the attendance of all members are avoided during party conference weeks;
- No meetings are scheduled on those Jewish holydays specified by the Board of Deputies of British Jews. Diwali is also avoided as is the Muslim Festival of Eid-al-Fitr.

In accordance with a previous decision school half term holidays are not avoided.

Where possible meetings during the school summer holidays have been avoided. The main exceptions are the meetings of the Area Planning and Planning and Environment Committees. This is because of the need for targets to be maintained

The Group Secretaries have been consulted and where possible their comments have been borne in mind in the production of the attached Calendar.

RECOMMEND –

1. **That the Calendar 2008/09 be approved and the Democratic Services Manager be authorised to agree variations in consultation with the Chairman of the body concerned.**
2. **That the Council, at their Annual Meeting, be recommended to agree the dates of the ordinary Council meetings proposed in the attached, in order to meet Constitutional requirements and that the Democratic Services Manager be instructed to take the appropriate action.**

3. LONDON LOCAL AUTHORITIES BILL - CONFIRMING RESOLUTION OF LONDON BOROUGH COUNCIL - BARNET COUNCIL

The Council on 6 November 2007 passed a resolution stating their support for the promotion of the London Local Authorities Bill or Bills to be promoted by Westminster Council. The Council is now required to confirm their support by passing a further resolution approving the promotion of the Bills.

RECOMMEND – That the Council approves the inclusion in a bill or bills to be promoted by Westminster City Council or, as the case may be in a bill or bills to be promoted jointly by Westminster City Council and any other person as appropriate, of provisions effecting all or some of the following purposes -

- (a) **to make provision about the decriminalisation of offences relating to public health, highways and road traffic and making contravention of the relevant legislation subject to a civil penalty charge regime; the introduction of a local levy, administered by London borough councils, on the provision of disposable shopping bags or to introduce a prohibition on the provision of disposable shopping bags; the introduction of a local levy administered by the London borough councils on the sale of chewing gum; an extension of the type of premises in respect of which a street litter control notice can be**

issued under the Environmental Protection Act 1990 to include a wider range of non-domestic premises; to enable councils to better control the feeding of wild birds; to enable borough councils to make charges for the use of urinals; to make further provision about the control of the placing of items on the highway; altering London borough councils' powers to fix signs and apparatus to buildings; amending London borough councils' powers to charge for the provision of amenities on highways under Part VIIA of the Highways Act 1980; controlling the placing of household waste in street litter bins; to enable London borough councils to recover costs incurred by them in rectifying damage caused by them when removing unlawful advertisements; to enable London borough councils, as local housing authorities, to take enforcement action and recover costs in cases where there has been a failure to comply with a duty imposed in relation to the management of houses in multiple occupation under regulations made under Section 234 of the Housing Act 2004; imposing a requirement in respect of food premises which are subject to inspection by London borough councils under the Food Safety Act 1990 to display copies of inspection notices or summaries thereof on the premises; to impose a new licensing regime for social clubs; to alter the requirements relating to the service of documents under the City of Westminster Act 1996, which deals with sex establishments; to enable London borough councils to exert better control over the licensing of premises which, but for the Licensing Act 2003 would be required to be licensed as sex encounter establishments; to enable London borough councils to delegate their functions under existing street trading legislation and enable other bodies to manage street markets; to alter the street trading legislation in the City of Westminster so as to enable Westminster City Council, without a court order, to dispose of articles seized under the Act; to make further alterations to street trading legislation in London; to control the distribution of free refreshments on the highway and in other public open places; to enable the highway authority to recover traffic management and street cleansing costs incurred as a result of public events and to have the power to close or manage traffic for certain special events; to enable the highway authority to provide charging points for electric vehicles in the highway; to enable local planning authorities to require that a deposit is provided prior to commencement of development, to be offset against costs arising from making good damage to the highway caused by the construction of the development; to enable action to be taken against persons who interfere with gates placed in pursuance of powers under road traffic legislation; to enable councils to better control pedicabs; to enable councils to serve penalty charge notices by post where there has been a parking contravention, and where service was prevented by the vehicle driving away; to allow decriminalised enforcement in respect of advanced stopping areas for cyclists at traffic lights; to allow decriminalised enforcement in respect of the use of mobile phones whilst driving; to enable London borough councils to vary fixed penalty levels for cycling on the footway; to enable the better control of the depositing of builders' skips on the highway; and to provide for a decriminalised regime of enforcement in relation to the driving of abnormal vehicles on the highway;

4. LEADER'S SCHEME OF DELEGATION

The Leader of the Council has amended the Cabinet Member for Community Engagement and Community Safety's portfolio to include reference to Environmental Health. The amendment is shown on the attached.

In accordance with the Constitution the change is reported to Council to agree the consequential change to the constitution.

RECOMMENDED – That the Democratic Services Manager be instructed to arrange for that part of the Council's Constitution setting out the Cabinet Members responsibilities (Part 3 – Responsibility for Functions) to be amended by the addition made by the Leader of the Council, to the portfolio of the Cabinet Member for Community Engagement and Community Safety, Councillor Brian Coleman, as set out in Appendix C

Summary of Graham Smith Report on Scrutiny Improvement

1. Foreword

Following the implementation of a training programme for Scrutiny Committee members, Graham Smith has conducted a review of the process based on views, opinions and recommendations gathered from those members. In submitting his report, Graham Smith has put forward changes which he believes will bring about improvement in the scrutiny process at Barnet.

The Report notes Barnet is a high performing council in a number of areas. However, the Scrutiny function was rated 'comparatively weaker in performance than in any other parts of the Council' and the scrutiny training programme was formulated to address the issue in part.

In general terms, the Report finds that members of all parties expressed concern over all aspects of the management of Overview and Scrutiny meetings, including their inability to be actively involved in policy development at the earliest opportunity. They believe that Cabinet and Senior Officers do not understand the significance of the overview and scrutiny process and regarded them and their work with disinterest and at worst, disdain. Furthermore, there was a feeling that Barnet was merely going through the motions of complying with the Local Government Act 2000, as far as the overview and scrutiny function was concerned.

Additionally, some Members appeared not to understand their role in Overview and Scrutiny processes nor the meaning of the "critical friend approach" and there were some expressions of reluctance to be seen to criticise his or her own party as this could, in some way, inhibit their ability to become a member of the Executive.

2. Approach Methodology and General Observations

The report states that the emphasis has been on self-evaluation and self-improvement, much as it is in the private sector, at both an individual and an organisational level and it has four main aims:

- To review the role of Overview and Scrutiny within the Council
- To review the structure of Overview and Scrutiny within the council
- To improve the performance of Members involved in the Overview and Scrutiny function.
- To improve the overall performance of the Overview and Scrutiny function within the council

It observes that "effective Scrutiny employs the Pareto Principle (80/20 rule) where Overview (or pre-event) is 80% of the workload, and Scrutiny (or post-event) is 20% of the workload. Clearly, while monitoring workload is important, the emphasis should be on successful outcomes and on Scrutiny's legitimate role in engaging the community.

There is a clear correlation between 'Good' and 'Excellent' CPA ratings and an effective Scrutiny function. Conversely, in 'Poor' or 'Fair' councils Scrutiny is seen to be working poorly..

An effective O&S function will actively engage elected members and the community in policy formation and development, to lead the community, be the voice of the community, drive improvements in council services and, lastly, to be a 'critical friend' of the Executive and to bring it to account when necessary.

Unfortunately, it is all too easy for O&S to become insular and inward looking. Sadly, in an overwhelming number of councils, the focus of the O&S process has been on 'second guessing and criticising the cabinet because they have been deprived of worthwhile endeavour in other areas. This has created an unnecessary fractious environment and alienated the vast majority of elected members.

The answer lies, therefore, in creating a structure that allows for clearly understood strategy, an effective means of delivery, and the healthy engagement of all elected members and the community in the process. Pending legislation will highlight and strengthen the role of Front Line Councillors (Democratic Champions) this report can be considered as being a prerequisite to its effective and seamless adoption

It cannot be stressed too highly that every member consulted, across all political groups, had major concerns over the conduct and effectiveness of the Scrutiny function“.

3. Recommendations made by Non-Executive Members

According to the Report “a number of very practical recommendations have been made to improve O&S process to bring some balance back into the Council. They are all designed to give non-Executive members a full and active role in the Council and to assist, not replace, the Cabinet in the discharge of its duties”.

“Importantly, the recommendations should be taken in the round and there should not be any 'cherry picking'. The only exception to this general rule is the recommendation to review Standing Committees versus Task and Finish (TAF) Groups, which clearly is worthy of further consideration”.

1.Management of meetings.

- (i) That the role of the Chairmen, with clearly defined skills, should be identified with training, support, and refresher sessions as appropriate given to them to effectively discharge their duties. There has already been some progress in this area as part of the scrutiny training initiative.
- (ii) Similar to (i) above, there should be a clearly defined role for the Vice – Chairman; this issue has also arisen during the scrutiny training initiative.
- (iii) On-going briefings and development for all members.

The scrutiny training initiative identified that members are keen to broaden their skills and improve their effectiveness in a wider role for O & S.

2.Promoting the independence of the O and S processes.

Consideration be given to appointing some Chairmen and/or Vice – Chairmen from the Opposition Groups.

3. Disband Cabinet OSC and Review Call-in Procedure

Replace with a robust, consistent, and independent method of call-ins that allows the Executive to fulfil policy and speed up decision making while allowing non-Executive members the wherewithal to legitimately challenge the Executive.

It would simplify proceedings if the ability to call-in decisions was made by the relevant standing committee but it would need to be combined with a strict set of criteria e.g. a minimum of 5 members signatures, call-in within x days of the decision, a change in the material facts since the decision was made, and/or a failure in the correct decision making process.

The adoption of similar criteria would ensure transparency and accountability. It would facilitate legitimate challenge and created a more constructive relationship between all political parties and the Executive and Scrutiny functions.

Crucially, this recommendation cannot be taken in isolation as there needs to be a shift in focus to provide a more substantive role for O&S to replace the current obsession with ‘call-ins’ as the sole means of political involvement in the decision making process.

4. Link with and balance of Power of Cabinet and influence of Scrutiny

Greater recognition required of Scrutiny’s legitimate role in influencing the policy making process either through the Scrutiny review process or it could be handled by the existing Constitutional review already under way.

5. Review witness procedure to allow questions

Given the desire to actively engage the community it seems sensible to review all of the witness and public participation procedures and to ensure that they are widely understood by, at the very least, all chairmen and vice chairmen and, preferably, by all Scrutiny members

6. Review procedure and criteria for co-option onto Scrutiny

A review should cover the current procedures and the criteria for co-option to ensure that they remain relevant to the work of the committee. However, Members need to be aware of their existing ability to engage expert advisers should they require

7. Formalise and strengthen the links between Scrutiny and Area Forums

A more formal link will facilitate more effective 2-way communication between LBB and the community. It will also facilitate the role of Democratic Champion/ Front Line Councillor to satisfy pending government legislation

8. Create a formal links with Citizens Panel, Focus Groups etc.

Scrutiny can only benefit from closer and more formal links with these bodies. For example, closer liaison could open up opportunities to identify potential expert witnesses, community spokesmen, and/or co-opted members for future investigative sub-committees.

9. Officer support.

There needs to be formal recognition that supporting Scrutiny is an intrinsic duty of the Directorates. Support for Scrutiny needs to be embedded in the culture of all officers if Scrutiny is to raise its game.

10. Shorter, crisper, and more relevant officer reports specific to Scrutiny.

Senior Officers need to acknowledge two important points:

- Reports that have been specifically designed for the Cabinet are frequently inappropriate for Scrutiny.
- Support for Scrutiny is equally as important as support for the Cabinet.

The proposed Project Team or a joint working party i.e. of Scrutiny Chairmen and senior officers will need to produce a specific template for Scrutiny reports.

11. Specific Scrutiny Appreciation for Members and Officers

Tailored Seminars for Cabinet and Senior Officers could assist their appreciation of how a different working relationship with O&S will be of benefit to them.

Specifically, it could spread the workload regarding community engagement and policy development without diluting the power or the ultimate responsibility of the Cabinet to deliver their manifesto to the electorate.

12. Scrutiny 'Toolkit' and Role Profiles for Elected Members.

Many current members are unsure of the role of Scrutiny and their part in the process. It follows that both need to be agreed and documented. Role Profiles should be considered for Democratic Champions/Front Line Councillors, Scrutiny Members, and Scrutiny Chairmen and Vice Chairmen

Additionally, a Scrutiny 'Toolkit' embracing the *why's* and *how's* of their role will be essential reading for all members, partners, and, members of the community engaged in Scrutiny.

13. Scrutiny representation on external partnerships.

If Scrutiny is to fulfil its' roles as the voice and leader of the community, in driving service improvements, and in much better partnership working, then it seems logical that it should be representing the Council on outside bodies in conjunction with the Executive.

14. Room Layout

A move to a more informal layout would benefit the whole process.

15. Scrutiny Meeting Venue.

There is a compelling case to hold meetings in other venues around the borough to facilitate and reinforce community engagement. Members should be reminded of this.

16. Replacement of Fixed Committees with Task & Finish Groups

While there was not a consensus view on this subject, it was clear that the majority of members felt that it required further investigation given the benefits that it could provide. Political neutrality could be achieved by having leaders or representatives of each political group on the over arching Commission but this is just one of the issues that needs further discussion.

4. Implementation

A cross-party consensus that early remedial action is required and the existing scrutiny culture should change to create the proper environment for LBB to deliver effective services to a diverse and growing community

Broad support for a cross-party project team, including officers, to consider all of the recommendations of this report, prioritise them, and then to set about implementing them.

If this approach is approved, Graham Smith recommends that the Project Team should comprises of 6 members:

- A Non-Executive Member from each political group (3)
- A member of the Cabinet
- A Senior Officer
- Mycroft Group or other external consultancy

{Alternatives would be a special O&S Committee, the Special committee (Constitution Review) or special meetings of the O&S Committee Chairmen}.

5. Resource Implications

The majority of the recommendations can be implemented within existing budgets although it may well involve a change in mindset from some Senior Officers. Supporting the Scrutiny function is not an adjunct to their existing workload but an integral part of their duties and has been since the Local Government Act 2000. This small but important change in emphasis will greatly improve relations between Scrutiny and the Directorates and enhance policy development and service delivery. At the same time, it will bring LBB closer to the community and make it more effective and relevant to its residents.

Calendar of Meetings 2008-09

Appendix B

		May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July
1	Corporate JNCC			17/7			7/10			13/1		23/3			15/6	15/7
2	Health and Safety JNCC			9/7				13/11		29/1		25/3			16/6	16/7
3	General Functions Committee		16/6			11/9			8/12	14/1	24/2	26/3			2/6	
4	Standards Committee	20/5				15/9			4/12			9/3				3/7
5	Audit Committee		24/6			25/9			9/12			10/3			25/6	
6	Resources, Performance and Partnerships Overview & Scrutiny			30/7				19/11			12/2			21/5		15/7
7	First Class Education and Children Overview & Scrutiny			22/7				11/11			8/2			7/5		16/7
8	Cleaner, Greener, Transport and Development Overview & Scrutiny				7/8			25/11			16/2		28/4		11/6	
9	Supporting the Vulnerable in our Community Overview & Scrutiny			23/7				20/11			9/2			5/5		22/7
10	Tackling Crime and Housing Overview & Scrutiny			21/7		24/9		24/11		28/1			23/4			23/7
11	Cabinet Resources		17/6	28/7		2/9			1/12	19/1	25/2	30/3	27/4		8/6	
12	Cabinet Briefing Meeting.	29/5		7/7	14/8		6/10	17/11		6/1	2/2	31/3		18/5		
13	Shadow Cabinet		12/6	24/7	28/8		16/10	27/11		15/1	20/2		20/4		4/6	
14	Cabinet - Formal Meeting		18/6	31/7		1/9	23/10		3/12	20/1	23/2		22/4		10/6	
15	Cabinet Overview and Scrutiny Committee		25/6		4/8	8/9		3/11	10/12	26/1		2/3	29/4		17/6	
16	Party Group Meetings for Council			10/7		4/9	30/10		11/12	22/1	26/2		2/4	14/5		9/7
17	Council			15/7		9/9		4/11	16/12	27/1		3/3*	7/4			14/7
18	Council - Annual Meeting	13/5												19/5		
19	Finchley & Golders Green Residents Forum		30/6		5/8	17/9		12/11		5/1	19/2	24/3		11/5	22/6	
20	Hendon Residents Forum		4/6		18/8	18/9		5/11		7/1	5/2	28/3		13/5	24/6	

21	Chipping Barnet Residents Forum		23/6		13/8	16/9		6/11		8/1	17/2	17/3		12/5		6/7
22	Area Environment. Subs		19/6			23/9			2/12			11/3			29/6	
23	Finchley & Golders Grn. Area Planning Sub		2/6	1/7 29/7	26/8	22/9	27/10	18/11	15/12	12/1	3/2	4/3	1/4 30/4	26/5	23/6	
24	Chipping Barnet Area Planning Sub		2/6	1/7 29/7	26/8	22/9	27/10	18/11	15/12	12/1	3/2	4/3	1/4 30/4	26/5	23/6	
25	Hendon Area Planning Sub		2/6	1/7 29/7	26/8	22/9	27/10	18/11	15/12	12/1	3/2	4/3	1/4 30/4	26/5	23/6	
26	Planning and Environment Committee	14/5	11/6	8/7	6/8	3/9	2/10 29/10	26/11	22/12	21/1	11/2	18/3	6/4	6/5	3/6	1/7
27	Licensing	21/5						17/11						20/5		
28	Pensions		26/6			10/9					4/2				1/6	
29	Special Committee (Constitution Review)						7/10				10/2	19/3				
	Reserved for Barnet Civic Network							10/11					21/4			

*Budget Council meeting, election of Mayor designate

Please note these changes for the 2007/08 calendar:-

1. Shadow Cabinet from 5/6/08 to 12/6/08.
2. Formal Cabinet from 12/6/08 to 18/6/08.
3. Party Group Meetings for Council from 19/6/08 to 10/7/08.
4. Council from 24/6/08 (date only appears in the Calendar for information, this was not approved by the Council) to 15/7/08.
5. Finchley & Golders Green Residents Forum from 16/6 to 30/6/08.
6. Hendon Residents Forum moved from 17/6/08 to 30/6/08.
7. Area Environment Subs from 2/6 to 19/6/08.
8. Hendon Area Planning Sub from 3/6/08 to 2/6/08.
9. Finchely and Golders Green Planning Sub from 4/6/08 to 2/6/08
10. Chipping Barnet Planning Sub – Committee from 3/2/08 to 2/6/08
11. Pensions Committee inserted for 26/6/08.

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APPENDIX C

<p>Cllr Brian Coleman 1 Essex Park Finchley London N3 1ND</p> <p>Totteridge Ward COMMUNITY ENGAGEMENT AND COMMUNITY SAFETY</p>	<p>To lead on budget and policy formulation and implementation in relation to community engagement and community safety.</p> <p>In particular, to build upon the Council's leadership role in improving community safety, embracing diversity and inclusiveness, removing inequality and ensuring that each person and group in the community has opportunities for involvement. To work with the many different ethnic and religious groups to maintain community cohesion.</p> <p>All matters relating to Community Safety, CCTV, liaison with Barnet Police and anti-social behaviour, including Domestic Violence and combating graffiti, fly-tipping and fighting crime including policy development on combating fly-tipping and graffiti.</p> <p>Additionally to deal with community safety in its widest sense by being responsible for Environmental Health and Trading Standards and licensing, as falls within the remit of the Executive.</p> <p>Also to be involved in and promote discussions in relation to any matters within the portfolio.</p>	<p>The general powers delegated to Cabinet Members are set out below.</p> <p>Certain functions are delegated to officers, in consultation with the Cabinet Member. These are set out in Paragraph 6 of Part 3 of the Constitution.</p>
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