

SCRUTINY BOARD

Tuesday 30th November 2004 at 6.00 pm

PRESENT: Councillor Roden (Chair); Councillors Bashir, R. J. Davis, Mead and Siederer.

IN ATTENDANCE: Councillor Ireland

44 COUNCILLOR M. HAND

The Committee paid tribute Councillor Michael Hand who was a member of the Scrutiny Board and who sadly passed away on 19th November 2004.

45 APOLOGIES FOR ABSENCE (REF: 1)

Apologies for absence from the meeting were received on behalf of Councillors Garrett and A. Hussain.

46 MINUTES (REF: 2.1)

Resolved: That the Minutes of the meetings of the Board held on 26th October 2004 be taken as read, agreed as a correct record and signed by the Chair.

47 FEEDBACK FROM INDIVIDUAL SCRUTINY COMMITTEE CHAIRS ON THE WORK OF THEIR COMMITTEES (REF: 7)

The Chair of the Environment and Non-Executive Functions Scrutiny Committee and the Chair of Regeneration and Citizenship were present at the meeting and outlined the work of their Committees.

The Committee noted the information and thanked the Chairs for their attendance.

The Director of Scrutiny raised concern that although Chairs and Vice-Chairs had been invited to attend this meeting to update the Board on the work of the individual Scrutiny Committees, many had not been able to attend.

The Chair suggested that a specific Chair be invited to each meeting and recommended that the Chair of Social Inclusion Scrutiny Committee be invited to the next meeting of the Board.

Resolved: (i) That the information provided by the Chair of the Environment and Non-Executive Functions Scrutiny Committee be noted.

(ii) That the information provided by the Chair of the Regeneration and Citizenship Scrutiny Committee be noted.

(iii) That the Chair of Social Inclusion Scrutiny Committee be invited to the next meeting of the Scrutiny Board.

48 FREEDOM OF INFORMATION ACT (REF: 8.1)

The Head of Customer Services presented to the Board a report in regard to the Freedom of Information Act (FOI).

The Board were informed that from the 1st January 2005 the public had a legal right to access information. Any request for information would have to be answered within twenty days. The Act would fundamentally change how information was used and shared and required the Council to adopt and maintain a publication scheme showing what, where and how much information was available. The Council would also need to comply with requests for information unless an exemption from disclosure applied.

The Act applied to all information held regardless of the form in which it was recorded, although access to personal data would continue to be dealt with under the provisions of the Data Protection Act 1998 (DPA). The Head of Customer Services referred to a case in which a New York Banker had been sentenced to eighteen months in prison, plus received a hefty fine for a single E-Mail asking colleagues to 'clean up' computer files. This illustrated the seriousness of not complying with FOI.

Members of the public would have new rights, which entitled them to be informed in writing whether information was held (duty to confirm or deny). Under the Council's duty to respond, the public would also have the information communicated to them subject to information being withheld where an exemption applied, the costs were above the threshold (above £450) or where the request was a vexatious, voluminous or repeated. Requests for information would need to be in writing and include the name and address of the applicant and a description of the information needed. Applicants did not need to refer to the Act or state why they were making the request for the information.

To deal with requests, the Council would need to know:

- how to recognise a request for information
- its procedure for dealing with requests and who was responsible for them
- that it was normal business as usual in terms of processing requests

- that it had a duty to provide advice and assistance
- that it had twenty working days to respond excluding school holidays
- that information must be provided in the form requested where reasonably practicable
- that there could be an iterative exchange
- that it was a criminal offence to alter, deface, block, erase, destroy or conceal information to prevent disclosure.

It was proposed that the Council would encourage information to be created in the expectation that anyone could see it, even e-mails and written notes. It would also encourage information to be published so that it would not be requested and learn from each request (publish and share).

The Council would have to make pragmatic decisions to establish two phases, Compliance and Transformation. Compliance with the Act required the simple and rapid implementation of procedures to ensure FOI compliance by the 1st January 2005. Transformation would require auditing and changing the way the Council held and managed information held and this was expected to be complete in late 2005.

The Board were informed that under the Right to Know, there would be absolute exemption to information that was:

- reasonably accessible to the applicant by other means
- court records
- personal
- provided in confidence
- where disclosure was prohibited by other legislation
- related to national security
- subject to parliamentary privilege
- held by Parliament where disclosure would prejudice effective running of public affairs.

There would also be qualified exemptions, which related to information that was:

- intended for future publication
- being investigated and proceedings were conducted
- part of law enforcement
- prejudicial to the effective conduct of public affairs and health and safety
- subject to Environmental Information Regulations
- personal data
- a legal or professional privilege

- prejudicial to commercial interests
- national security
- defence
- international relations
- relations within the UK the economy
- audit functions
- formulation of Government policy
- communications with Her Majesty

The Board were notified that all requests for information would require a public interest test.

The Director of Scrutiny proposed that he be authorised to request information under the Freedom of Information Act on behalf of the Board, Scrutiny Committees and Panels in consultation with the appropriate Chair.

Resolved: (i) That the report be noted.

(ii) That the Director of Scrutiny be authorised to request information under the Freedom of Information Act on behalf of the Board, Scrutiny Committees and Panels in consultation with the appropriate Chair.

49 CHANGES IN SCRUTINY MEMBERSHIP (REF: 8.2)

The Director of Scrutiny informed the Board of recent changes to membership of Scrutiny Committees in light of the replacement of Councillor Pantling with Councillor Pedersen on the Executive.

The changes were:-

- Lifelong Learning Scrutiny Committee – Councillor Pantling to replace Councillor Pedersen
- Performance, Resources and Assets Scrutiny Committee – Councillor Pantling to replace Councillor Skepelhorn
- Regeneration and Citizenship Scrutiny Committee – Councillor Skepelhorn to replace Councillor Pedersen.

Resolved: That the changes in Scrutiny Committee membership be noted.

50 CHANGES OF MEMBERSHIP OF BEST VALUE SCRUTINY PANEL (REF: 8.3)

The Head of Local Democracy submitted a report in regard to the

change of membership of the Best Value Scrutiny Panel. With immediate effect, Councillor Johnston would replace Councillor P. Chapman.

Resolved: That the replacement of Councillor P. Chapman with Councillor Johnston on the Best Value Scrutiny Panel be noted.

51 FEEDBACK FROM SCRUTINY TRAINING (REF: 8.4)

The Director of Scrutiny reported on feedback from a recent scrutiny training event in respect of 'Effective Overview and Scrutiny'.

The Chair commented that the training had proved useful and suggested that a meeting be arranged between herself and the Director of Scrutiny to discuss issues highlighted in the training and report back to the next meeting on their findings.

Resolved: (i) That the report be noted.

(ii) That a meeting be arranged between the Chair and the Director of Scrutiny to discuss issues highlighted in the training and report back to the next meeting on their findings.

52 CENTRE FOR PUBLIC SCRUTINY SELF EVALUATION ASSESSMENT (REF: 8.5)

The Director of Scrutiny reported on the self-evaluation framework produced by the Centre for Public Scrutiny (CfPS).

The Chair suggested that a meeting be arranged with the Scrutiny Officer to enable the Chair to complete the self-evaluation on behalf of the Scrutiny Committees. She added that members of all Scrutiny Committees should e-mail their comments either to herself or the Director of Scrutiny.

The Director of Scrutiny suggested that he should be delegated authority in consultation with the Chair, to report to the CFPS on the Councils self-evaluation framework.

Resolved: (i) That the report be noted.

(ii) That a meeting be arranged between the Chair of Scrutiny Board and the Director of Scrutiny to complete the self-evaluation on behalf of the Scrutiny Committees including comments from members of all Scrutiny Committees.

(iii) That the Director of Scrutiny in consultation with the Chair of

Scrutiny Board be delegated to report to the CFPS on the Council's self-evaluation framework.

53 SCRUTINY WORK PROGRAMME (REF: 8.6)

The Director of Scrutiny reported on the work programme for the Board and invited Members to agree the items which should be included for the future.

Resolved: That the work programme be noted and Members be requested to submit any items they wished to include for the future to the Director of Scrutiny for discussion with the Chair of the Board.

54 SCRUTINY BUDGET (REF: 8.7)

The Director of Scrutiny informed the Board of the draft budget proposals for the scrutiny functions for 2005-06 which been prepared on 'standstill' basis. The Board were informed that there might be need for economies, if so funding for the Luton and Bedfordshire County Council Joint Health Scrutiny Committee might have to be withdrawn.

The Chair raised concern and felt that funding for the Luton and Bedfordshire County Council Joint Health Scrutiny Committee should continue.

Councillor R. J. Davis suggested that a growth bid be submitted to the Council to enable the Scrutiny process to develop.

Resolved: (i) That the report be noted.

(ii) That the Director of Scrutiny submit a budget growth bid for an additional scrutiny officer to enable the Scrutiny process to develop.

(Note: The meeting ended at 7.22 pm)