

**OVERVIEW AND SCRUTINY COMMISSION
HELD ON MONDAY, 5 JULY 2021
(FROM 5.30 PM – 6.37 PM)**

PRESENT: Councillor Chris Aldred in the Chair. Councillor Sam Gibbs, Councillor Michael Harrison, Councillor Sue Lumby, Councillor Pat Marsh, Councillor Stuart Martin, MBE, Councillor Nigel Middlemass and Councillor Robert Windass.

Late Arrivals: None

Early Departures: None

21/20 – APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTES:

Notification had been received that Councillor Steven Jackson was acting as a substitute for Councillor Bernard Bateman, MBE and that Councillor Philip Broadbank was acting as a substitute for Councillor Tom Watson. Apologies were received from Councillor Norman Waller and Councillor John Mann.

(5.31 pm)

22/20 – DECLARATIONS OF INTEREST:

No declarations of interest were made at the meeting.

(5.32 pm)

23/20 – MINUTES:

The Minutes of the meetings of the Commission held on 7 June 2021 were approved as a correct record.

(Five Members voted for the motion and there were five abstentions)

(5.33 pm)

24/20 – EXEMPT INFORMATION:

There was no exempt information.

(5.33 pm)

25/20 – PUBLIC ARRANGEMENTS- QUESTIONS:

The Chair advised that he had received notification of one public question under Standing Order 27 and he invited the questioner, Mr Peter Lilley, to ask the question.

1. Question to the Chair of the Overview and Scrutiny Commission from Peter Lilley

It's now been 2.5 years since I first asked the scrutiny committee to review the way Harrogate Council's legal department deals with complaints. Nothing's happened. In my view, far too much influence is wielded by the Monitoring Officer (Jennifer Norton) who has the power to decide whether complaints are even heard. She's then under no obligation to explain her decision or answer questions about it. And there is no right of appeal.

OVERVIEW AND SCRUTINY COMMISSION

There would also appear to be an inconsistency in which complaints she forwards to a standards panel and which complaints are decided by Ms Norton alone. It's true that she has an obligation to consult the Council's so-called Independent Person but I would argue the term Independent Person is something of a misnomer.

The Independent Person is briefed by Ms Norton, reports back to Ms Norton; is banned, it seems, from having any communication with complainants. And, in the end, Ms Norton is under no obligation to accept the Independent Person's advice.

I believe the shortcomings in the complaints system have steadily got worse so that you now have a situation where senior officers are allowed to "investigate" complaints against other senior officers; and it's curious how often they find each other entirely blameless.

Just in the last two months Ms Norton has rejected a Code of Conduct complaint against a Cabinet member – even though she had been personally involved in one of the matters being complained about. How can that decision possibly be regarded as impartial?

I think this is a completely unacceptable state of affairs. It makes a mockery of the complaints system and means councillors & officers are potentially unaccountable.

I believe the time for excuses is over and that the scrutiny committee should now review the way HBC's legal department deals with complaints as a matter of urgency.

The Chair thanked Mr Lilley for his question and gave the following response:

RESPONSE

Regarding your initial preamble into those making input into the answer you are about to receive, I can confirm that I have consulted with council officers regarding my answer - indeed it would be remiss of me not to do so. However, the answer is my answer and I am happy to stand by it. You will receive a written copy in due course, together with other documentation relating to it.

So thank you for the Question and just to confirm that the issues you mention involve two different processes, complaints against Members and the corporate complaints process.

The process for complaints against Members is detailed within the Council's Constitution at Section 5, including how these complaints will be investigated, the process, as set out, complies with the Localism Act 2011.

The Monitoring Officer, as referred to in your question, is a statutory appointment, under Section 5 of the Local Government and Housing Act 1989 as amended by paragraph 24 of Schedule 5 Local Government Act 2000, the statutory functions of this role are set out under legislation. You are correct in that there is no right of appeal (as set out in the procedure), although the process does state that if you feel that the authority has failed to deal with your complaint properly then you should

OVERVIEW AND SCRUTINY COMMISSION

make a complaint to the Local Government Ombudsman. In this, the process complies with both legislation and best practice and I understand that the vast majority of Councils up and down the country follow the same or similar process – Harrogate Borough Council is not doing anything different to anyone else. The corporate complaints process can also be found on the Council's website. The Monitoring Officer does not have anything to do with the corporate complaints process, at this initial stage anyway. This sits within the Finance service and is administered at Stage 1 through the Customer Services team and if a complaint reaches Stage 2, these are allocated to a Director or Head of Service by the Chief Executive's Office, not by the Monitoring Officer. The corporate complaints process gives a right to appeal to the Local Government Ombudsman, or the Housing Ombudsman (if a Housing issue) and if you are not satisfied with the Stage 2 response the complaints process advises you contact one of these Ombudsman. Again, I would stress that the process has been written in line with best practice and I am assured, is followed by the vast majority of Local Authorities in the Country. So, in a nutshell, both complaints processes comply with legislation and best practice and offer an alternative, if the complainant remains dissatisfied with the Council's approach – which is the Local Government Ombudsman.

I will make sure that full copies of the processes – I am sure that you are aware of them anyway Peter - but we will send them to you again, along with the written copy of this answer.

It is some time since we had a question from a member of the public - I believe that you were the last, some 16 months ago. Whilst we always welcome them, it would be remiss of me not to point out that requests for items of work for the Commission should ideally be discussed with the scrutiny support team, so that appropriate information can be prepared for the Commission to consider. Requests are not most effective through public questions, or by addressing the Commission without prior contact, because simply there is no mechanism for debate or discussion and relies on some further decision/action by the Commission to seek information that could have been provided initially.

However, tonight is a good time to ask your question, as our main agenda item this evening is our work programme for the coming year. We held an informal meeting recently and we will be looking at the results of that meeting tonight. The HBC complaints procedure was raised at our informal meeting as a possible future work item, so if you are staying around you will be able to see any discussion under agenda item seven this evening.

(5.34 pm – 5.44 pm)

26/20 – FORWARD PLAN OF KEY DECISIONS:

The Chair explained the purpose of the item was to make Members aware of forthcoming decisions on the Forward Plan to enable pre-decision scrutiny. The Forward Plan item informs Members when reports will be published and names the lead officers.

Councillor Harrison referred to the Key Decision, Brimhams Gym Equipment Procurement and whether future significant investment decisions relating to leisure

OVERVIEW AND SCRUTINY COMMISSION

services would be included on the Forward Plan and subject to scrutiny. This was because from August 2021 leisure services would be delivered by a Local Authority Controlled Company (LACC) called Brimhams Active Limited. Councillor Marsh was a company director for the LACC and stated that major expenditure remained a Harrogate Borough Council responsibility. The SGRM agreed to confirm the decision making arrangements for future decisions regarding Brimhams Active Limited.

Commission Members referred to Key Decisions relating to tenders/contracts and that there had been some examples where they had been exempt from the tendering procurement process. The Scrutiny, Governance and Risk Manager stated that the Commission did not have information before them to enable a discussion regarding this issue. The Chair confirmed that procurement/single-tender contracts had been suggested as a future item of work to be included on the Commission's work programme and could be discussed under the item considered at Minute 27/21.

(5.44 pm – 5.53 pm)

27/20 – OVERVIEW AND SCRUTINY DRAFT WORK PROGRAMME 2021/22:

The Chair introduced the report submitted by the Scrutiny, Governance and Risk Manager. He explained that the Commission had met informally and undertaken a work-planning workshop. A new process had been applied to prioritise potential work items and the Chair expressed the view that it had been effective but could be further refined. Details of the potential work items that had been prioritised were within the report, along with other items that had been discussed but not prioritised. The Chair confirmed that the Commission had agreed Local Government Reorganisation (LGR) was a focus for the Commission and associated work would be undertaken when appropriate.

Appendix A to the report contained the schedule of meetings and details of the focus for meetings. This included special meetings with external invitees held on behalf of the Council with the Chief Constable of North Yorkshire and other key stakeholders. Full details of the outcomes from the work-planning workshop held on 14 June 2021 was within Appendix B.

The Scrutiny, Governance and Risk Manager updated the Commission about the following potential work items:

- Agency workers – this item had been suggested by the trade union UNISON before the COVID-19 pandemic. As a result of the workshop it had been agreed to seek the views of the trade union to establish if this was still a priority item of work. Subsequent to the workshop the UNISON branch secretary had confirmed this was still a priority item to be progressed
- Station Gateway and Cycle Routes – this had been suggested by a member of the public however no further information had been provided. At the workshop it had been agreed to seek additional information to develop a potential scope. Subsequent to the workshop the member of the public had been contacted however no further information had been received.
- Complaints – this had been identified as a potential work item at the workshop and it had been noted that significant work had previously been undertaken by

OVERVIEW AND SCRUTINY COMMISSION

the Commission and a draft scope prepared. The work undertaken by the Commission had been circulated to Members as agreed

Members discussed the review of Local Bus Provision. There were comments about the scope (that had been developed and agreed before COVID-19), the approach to a review and involvement of bus companies and the public, as well as views about potential outcomes and key dates.

Councillor Michael Harrison, who was an Executive Member for North Yorkshire County Council (NYCC), explained that NYCC was the authority responsible for transport matters and it was in the process of forming a response to the proposals within the national bus strategy. NYCC Executive had discussed this at a meeting held on 22 June 2021. It was stated that if the Commission wanted to input into the NYCC work this would have to be prior to October as this was the date for completion. NYCC had also committed to further consultation about the Station Gateway proposals which would be discussed through the Harrogate and Knaresborough Constituency Committee.

It was noted that a task and finish group had been formed to undertake a review of Local Bus Provision however the Commission now had a task and finish group looking at the UCI Road World Championships and it was not usual to have more than one working group running concurrently. Therefore any in-depth review undertaken by a task and finish group would be able to start once the UCI review was concluded.

Double taxation and parish precepts were an item on the draft programme of work and this was discussed in relation to LGR. A Notice of Motion recommending any successor Unitary Authority consider creating a Parish Council for the town of Harrogate had been submitted for debate at a meeting of the Council to be held on 7 July 2021.

In reference to some of the potential areas of work, including local bus provision and LGR, Members acknowledged that high-level strategic decisions would be made and could not necessarily be influenced. The Commission could however have involvement in investigating how changes would affect local residents.

RESOLVED (UNANIMOUSLY):

The programme of work for the 2021/22 would comprise of Local Government Reorganisation and the seven items listed as high priority:

- Agency workers
- Criteria for referral to planning committee
- Affordable housing delivery in the AONB
- Contract tendering/procurement
- Local bus provision
- The provision of sports pitches in the district
- Double taxation/parish precept

(5.54 pm – 6.33 pm)

OVERVIEW AND SCRUTINY COMMISSION

28/20 – FEEDBACK FROM OTHER COMMITTEES AND EXTERNAL BODIES:

Councillor Nigel Middlemass was the Commission's representative on the North Yorkshire Scrutiny of Health Committee. He provided the following update following a meeting of this Committee on 18 June 2021.

COVID-19 vaccinations/NHS business as usual: had been recently made available to everyone over the age of 18. 81% of adults had received a first dose and 66% had received both doses. 85% of normal elective NHS services were being undertaken.

Mental health: local services were experiencing challenges in recruitment with a number of posts currently vacant. Effective partnership work was a strategy being developed to deliver services.

Dental health: the committee would focus on access to dental services particularly for children. It was reported that dental extractions was the cause of most hospital admissions for children aged 6-10.

It was confirmed that the next meeting of the NYCC Scrutiny of Health Committee would be held in September.

(6.33 pm – 6.37 pm)