

**REPORT OF OVERVIEW AND SCRUTINY COMMITTEE-
ENVIRONMENTAL WELL BEING**

ENFORCEMENT SERVICES

1. INTRODUCTION

1.1 On 21 November 2006 the Executive considered a report of the Chief Executive on a projected loss of income from the Enforcement Unit in the 2006/2007 financial year, and the reasons for the projected losses. The decision of the Executive was that:

1. the report be noted;
2. approve the delegation of authority to the Chief Executive to review and re-work the business model for Enforcement; and
3. the Chief Executive report back to the meeting of the Executive on the 19th December detailing action to be taken to resolve the immediate issues and ways to ensure that this will not happen again in the future.

1.2 The Executive decided not to agree to two further recommendations to approve the allocation of £20,000 to be vired from existing resources to undertake the review (Recommendation 3) and to approve that the OSC for Environmental Well Being acts as the steering group for the review (Recommendation 4).

1.3 On 24 November 2006 six Members of the Council (Councillors Anne Bradshaw, Mrs Y R T Clarkson, P C Connolly, K Hitchen, J Jackson and Mrs M B Woodburn), exercised their right under the Council's Constitution to call in the Executive decision for scrutiny prior to implementation, on the following grounds:

- We do not believe that all the Executive Members were fully aware of the work that scrutiny has carried out on the Enforcement Unit this year, including requests for financial information made by scrutiny, when they made their decision to delete recommendation 4.
- Enforcement is an important area of Council business, a high profile issue with a serious impact on both service delivery and the Council's financial position which should be the subject of Member and public debate.
- The deletion of recommendation 4 has left scrutiny with no alternative but to call in the decision, given that public and member accountability are at the heart of why scrutiny exists and that if it fails to ask questions then the Council is failing in its scrutiny role.

- It would appear from subsequent press reporting that options to be included in the Chief Executive's review include changes to policy – scrutiny has a further role in contributing to policy development and would legitimately expect an input into any radical change of policy.

3. MEETINGS

- 3.1 The Committee met on 28 November 2006 to conduct the call-in review.

4. EVIDENCE

- 4.1 The Committee considered the following written evidence in the course of conducting the review:-

The report to the Executive of 21 November 2006 (Enforcement Services Business Plan Update with 2 Appendices)

Memo from Scrutiny Support Officer to Enforcement Services Manager dated 22 June 2006.

Memo from Scrutiny Support Officer to Budget Working Party dated 12 September 2006.

Summary of significant net expenditure variances from Budget Monitoring Report for 6 months ending 29 September 2006.

- 4.2 The Committee heard oral evidence from the following witnesses:

Chief Executive
Head of Finance and Business Administration
Head of Leisure and Environmental Services
Portfolio Holder for Environmental and Cultural Services

- 4.3 The Chair clarified for each witness before hearing their evidence that this call-in review would not be considering issues relating to management, operations or staffing.

5. EVIDENCE OF THE CHIEF EXECUTIVE

- 5.1 The Committee heard evidence from the Chief Executive that the review he had been asked to carry out by the Executive would cover the following issues:

(a) What had happened to cause the deficit in the current financial year and why

(b) How the position could be recovered in the current financial year

(c) How the Council's enforcement function could be provided in an effective and sustainable basis in the future.

- 5.2 In his evidence the Chief Executive stated that while his review might highlight areas where there could be a need for policy changes in enforcement, his review itself would not be considering policy development or policy changes., which were outside its scope. His intention was that Member involvement in policy development, and stakeholder and public consultation, would follow after his report back to Executive on 19 December, if appropriate or required as a result of recommendations within the remit of the review. The review would concentrate on the management aspects of how and why the deficit had occurred, would not be an exercise in allocating blame, and would be conducted away from public scrutiny.
- 5.3 The Committee heard evidence from the Chief Executive that in his view the decisions of the Executive not to agree Recommendations 3 and 4 were linked, in that the proposed allocation of funding for external assistance in the review (Recommendation 3) required overseeing at Member level, and this was the reason for suggesting the inclusion of a role for OSC Environmental Well Being (Recommendation 4). The removal of one was logically followed by removal of the other.

6. EVIDENCE OF THE HEAD OF FINANCE AND BUSINESS DEVELOPMENT

- 6.1 The Committee heard evidence from the Head of Finance and Business Development that enforcement income had shown a volatile pattern historically. A problem with income lagging behind target had been identified in November 2005, and there had still been an overspend at the end of the 2005/2006 financial year, though not as serious as had been expected due to the high levels of accruals submitted by management.
- 6.2 In the 2006/2007 financial year an overspend had been identified in July arising from the period 3 accounts and an e-mail sent to relevant officers in early August raising concerns over the information on income due shown in period 4.
- 6.3 On 15/18 September the Accountancy Services Manager held a meeting with the Portfolio Holder to discuss the overspend and following this a formal briefing note was issued by the Head of Finance and Business Development to the Chief Executive and the Corporate Director (Quality of Life).
- 6.4 On revenue monitoring, the Committee heard evidence that monitoring statements are issued by Accountancy Services to service heads within 10 days of each 4 week accounting period, followed by a face-to face meeting. Formal monitoring reports are issued to the Executive quarterly. The Committee were notified of the requirements of Financial Regulation C5 on budget monitoring and control. The Head of Finance and Business Development understood that there were regular meetings between service managers in Leisure and Environmental Services and the Portfolio Holder,

although these were established as custom and practice rather than on a formal basis.

7. EVIDENCE OF HEAD OF LEISURE AND ENVIRONMENTAL SERVICES

- 7.1 The Committee heard evidence from the Head of Leisure and Environmental Services that he had become aware of the overspend in August 2006. The Portfolio Holder had been notified at the same time by another member of staff as the Service Head had been on annual leave at the time. The Portfolio Holder had been briefed by Accountancy and had also spoken to the relevant service managers in Leisure and Environmental Services.
- 7.2 There were conflicting pressures in the Enforcement Unit which had increased since the Unit's formation. Car parking income was the Unit's financial driver but there were public expectations of performance in areas such as fly-tipping and dog-fouling. These issues had been the subject of informal discussion between himself and the Portfolio Holder. He was not aware of similar discussions between the Portfolio Holder and individual managers.
- 7.3 On the requests from the Overview and Scrutiny Committee for information on the financial performance of the Unit, the Service Head was not able to explain fully why these had not been actioned. In his view the management accounts (other than period 5) did not on the face of it identify a serious problem with enforcement. There were other services where the overspend at that point appeared more serious, such as street cleaning (£18,000), than was enforcement (£12,000). (The position on accruals which were non-achievable had subsequently exacerbated the problem). In his view these sums were relatively insignificant in the context of the overall budget of the department.
- 7.4 The Service Head said that he believed that reports to Overview and Scrutiny Committees were not subject to the same requirements for clearance by Corporate Team as were reports to Executive or full Council. If he had been aware of the requests from the Committee for information on the enforcement function, he would have ensured they were supplied. He was not aware of a specific protocol which covered these situations. (The Democratic Services Manager confirmed there was none).

8. EVIDENCE OF THE PORTFOLIO HOLDER FOR ENVIRONMENTAL AND CULTURAL SERVICES

- 8.1 The Portfolio Holder kept in touch with services in his portfolio through regular discussions with officers, occasionally the Service Head himself, but more usually the Open Spaces Manager and more recently the Enforcement Manager following his return from sick leave. Meetings were held about once a fortnight but more often if required.
- 8.2 The Portfolio Holder's attention had been drawn to the overspend and the non-achievable accruals in August 2006 by the Head of Finance and Business Development. There had been problems with the enforcement budget in the previous financial year. He confirmed that he had attended a

meeting in mid-September with the Accountancy Service Manager and the Open Spaces Manager when the overspend was discussed in detail. The Portfolio Holder had raised his concerns with the Leader and Deputy Leader in October/November, when the projected shortfall had increased from £100,000 to £173,000.

- 8.3 On the issue of the deletion of Recommendations 3 and 4 from the Chief Executive's report to Executive, the Portfolio Holder believed that the Chief Executive's review should be completed without any Member involvement. He agreed that there should be consultation with the Overview and Scrutiny Committee on any proposed changes in policy.
- 8.4 On the OSC's requests for information on enforcement, the Portfolio Holder said that he expected such requests to be complied with and that this would be one of the issues to be dealt with in the Chief Executive's review. He was not aware that requests had not been complied with, and asked to be kept informed of future requests so that he could ensure that information requested was supplied promptly.

9. CONCLUSIONS

- 9.1 The Committee notes that the review the Executive has asked the Chief Executive to carry out will consider the relevant management issues relating to the deficit, and notes the Chief Executive's view that policy considerations are outside the scope of his review. The Committee does not consider that either this call-in review or the recommendations in this report in any way duplicate, conflict with or prejudice the Chief Executive's review.
- 9.2 The Committee expects that further work and decisions on policy changes in the enforcement function will follow from the Chief Executive's review and his report to Executive on 19 December. As articulated in the call-in requisition, enforcement is an important and high profile area of Council business, and should be the subject of wide Member and public debate. As, in addition, overview and scrutiny has a central role to play in policy development, the Committee expects overview and scrutiny as well as the public and other stakeholders, to be fully engaged in a debate on any possible policy changes at that stage.
- 9.3 Whilst the committee accepts that there are effective mechanisms in place for provision of timely budget monitoring information for managers, the Committee believes there is scope for improvement to budget monitoring at Member level and that overview and scrutiny could assist in this and the Committee's recommendations are framed accordingly.
- 9.4 The Committee believes that this episode demonstrates that there is still not full acceptance throughout the Council that overview and scrutiny has an important role in the democratic process in counter-balancing a strong Executive and holding it to account for its decisions – exemplified by the failure to respond to the requests of the Committee for financial information on the enforcement function in June 2006. The Committee is therefore proposing

that there should be an agreed and enforceable protocol for ensuring that reasonable requests for information from OSC's are responded to within reasonable timescales.

- 9.5 The Committee has also concluded that this episode demonstrates that there would be mutual benefit to both Portfolio Holders and OSC's from more consultation and debate between both.

10 RECOMMENDATIONS

- 10.1 That any policy changes arising from recommendations in the Chief Executive's review report are followed by a debate on all options which fully engages the public, stakeholders and overview and scrutiny.**

- 10.2 That a protocol be produced and agreed by the Council for ensuring that reasonable requests for information by OSC's on items of work within their work plans and/or in their terms of reference are actioned promptly.**

- 10.3 That the Executive considers introducing a role for OSC's in monitoring revenue expenditure in service areas relevant to their terms of reference.**

- 10.4 That OSC's and the relevant Portfolio Holders be encouraged to consult and debate on all areas of Council activity where there is mutual interest, and Portfolio Holders invited by Chairs to attend OSC's to discuss these on a regular basis.**

11. CONCLUSION

- 11.1 The Committee would like to thank all Members and officers for their co-operation in carrying out this review.