

Scrutiny Committee – 4th October 2011

8. Proposals for the Joint Scrutiny of the Somerset Waste Board

Lead Officers: Emily McGuinness, Scrutiny Manager
Jo Gale, Scrutiny Manager

Contact Details: emily.mcguinness@southsomerset.gov.uk or 01935 462566
or joanna.gale@southsomerset.gov.uk or 01935 462077

Purpose of the Report

This report proposes more effective future arrangements for the Scrutiny of the Somerset Waste Board (SWB).

Action Required

Scrutiny members are asked to agree the following:

- (1) That an informal Joint Scrutiny Panel is established as outlined in this report, consisting of two non-executive members from each member authority (plus one nominated substitute);
- (2) That subject to recommendation (1) above being agreed, officers produce the detailed Terms of Reference for the informal Joint Scrutiny Panel to be agreed by the first meeting of the panel;
- (3) That the legislative position re: establishing Joint Scrutiny Committees be kept under review, and further reports be submitted as necessary.

Background

Over the last three years there have been only two joint scrutiny activities relating to the work of the Somerset Waste Board and Somerset Waste Partnership. One was a Joint Scrutiny Panel to consider the performance of the SWB and SWP after 12 months of their establishment and the other was a specially convened Panel to consider a call-in action.

Earlier this year, members from several authorities requested that a decision of the Somerset Waste Board (SWB) to potentially close several Household Recycling Centres (HWRC's) across the county be 'called-in'. Officers sought to meet this request using the guidance available from the SWB's constitution. Whilst the meetings that were hastily arranged contributed to the successful resolution of the matter, it would certainly be fair to say that several areas for improvement became apparent.

At the time it was agreed that officers would meet after the May elections and discuss future improvements to the scrutiny arrangements of the SWB. The officers subsequently met on 24th June and this report outlines the issues discussed and proposals for the way forward.

The need for improved pre-decision scrutiny to ensure that the wider membership of all partner authorities were made more aware of, and included in, the work of the SWB was highlighted by the recent situation relating to Household recycling centres. The importance of a greater level of member awareness and involvement will be essential for managing any further changes to waste collection/disposal services, especially if these have to be taken within tight timescales. This will achieve better-planned non-executive involvement rather than reactive call-ins etc. It was also mentioned that greater

awareness among non-executive members would be helpful in terms of succession planning for future membership of the Board as well as extending the ability of councillors to assist with communicating any planned changes with their local communities.

In order to facilitate this greater awareness, it is suggested that as a matter of course, the monthly SWB Forward Plan of future business will be circulated to Scrutiny contacts within each partner authority to include this in Scrutiny agendas in much the same way as Executive Forward Plans are currently considered. Each authority's Scrutiny Committee would then be able to identify potential opportunities for further work/information prior to final decisions being taken. It is anticipated that officers responsible for Scrutiny in each partner authority will take responsibility for ensuring a co-ordinated approach to such pre-decision scrutiny. As this report goes on to discuss, there are a couple of options for improved joint scrutiny arrangements, but whichever model is implemented, the need for co-ordination to minimise the duplication of effort on the part of partnership officers is paramount.

It is suggested that there are two planned Joint Scrutiny meetings held to monitor both the current and future service and financial performance of the Somerset Waste Partnership. This report recommends that once an appropriate Scrutiny body has been established, it should meet in January of each year to consider the budget proposals for the SWP for the forthcoming financial year and then again in July to consider outturn reports.

What form for the proposed Scrutiny body?

When the Scrutiny officers met, they agreed that some form of empowered scrutiny body, beyond the existing Joint Scrutiny Panel arrangement, would be the preferred option. Essentially, this would mean that each partner authority would appoint two members according to their individual constitutional requirements to a Joint Scrutiny Committee. Each partner authority would then delegate appropriate Scrutiny functions to the Joint Scrutiny Committee, thus enabling it to carry out Scrutiny of the SWB on behalf of all partner authorities. This approach would lead to improved efficiency in the decision making process as SWP officers and SWB members would only have to engage with a single scrutiny body as opposed to 6. An empowered and formally constituted Joint Scrutiny Committee would not need to have its recommendations ratified by each authority's respective Scrutiny committees, again leading to improved efficiency. Officers from South Somerset District Council offered to lead on supporting Joint Scrutiny arrangements.

However, whilst this may be the officers' preferred option and is practically deliverable, the main issue is that currently there is no legal provision for such a joint scrutiny body.

The Local Government and Public Involvement in Health Act 2007 (s123) allowed for Joint Scrutiny Committees to be established, particularly in two tier areas such as Somerset. However, such committees could only be established to scrutinise LAA targets, which in any case have since become obsolete and would not cover a joint Scrutiny Committee of the Waste Board.

Subsequent legislation, namely section 32 of the Local Democracy and Construction Act 2009 replaces section 123 of the LGPIH Act with a provision for the Secretary of State to make by regulations the provision under which any two or more local authorities in England may appoint a joint overview and scrutiny committee. Under this provision, a joint Scrutiny Committee could be established specifically to monitor the work of the

SWB. However, although this clause of the Act came into force in January 2010, to date, the Secretary of State has yet to issue regulations under the Act to enable Joint Scrutiny committees to be appointed.

As already mentioned, the preferred option would be to establish a formal Joint Scrutiny Committee, however, until the legal situation has been clarified, it would seem sensible to progress with an alternative plan.

The alternative to a formal Joint Scrutiny Committee would be for each partner authority to proceed with appointing two Scrutiny members to a Joint Scrutiny Panel (as provided for under the current SWB Constitution). The panel would then meet twice a year as described above, however, following each meeting, any recommendations made would have to be ratified by each of the individual authority's Scrutiny Committees.

On the surface, this may appear a rather cumbersome approach. In reality, Scrutiny is not a decision-making body and therefore any referring back to individual Scrutiny Committees should not cause any undue delay to the decision making process of the SWB. Scheduled meetings of a Joint Scrutiny Panel would still achieve the main objective of planned involvement of the wider membership of all partner authorities and feedback to individual Scrutiny Committees can be pre-planned.

As part of the agreement to put in place structured arrangements for a joint scrutiny body (in which form we are able to proceed with) all partner authorities will be asked to agree that if SWP officers attend a meeting of the Joint Scrutiny body, they will not be required to attend the individual scrutiny committees of the 6 partner authorities to discuss the same issue. This does not mean that individual scrutiny committees will not be able to request SWP officers attend individual meetings to discuss issues that are only pertinent to a single area. However, the nature of the work of the SWP means that the effects of many of their decisions will be universal and every effort should be made by relevant officers to ensure a co-ordinated approach and avoiding duplication where possible.

Urgency

The issue of determining Waste Board decisions as 'Urgent' (thus preventing Call-in) was also discussed. Article 1.3 of the Waste Board's Constitution states that:

1.3 Where the Board decides that a decision must be implemented without delay and as a matter of urgency any subsequent 'call in' of that decision should normally relate only to the process leading to the decision and not to the decision itself.

In practice, this means that the Board can decide in isolation that a matter should be treated as 'urgent'. It is more usual for the agreement of the Chair of Scrutiny to also be sought when seeking to decide a matter is 'urgent' as this ensures that 'urgency' is only invoked in extreme circumstances.

Once agreement has been reached about future joint Scrutiny arrangements, the Scrutiny elements of the SWB's Constitution will be reviewed and a more appropriate 'Urgent' process can be discussed.

Call-in

In the event of a call-in of a decision of the SWB by more than one partner authority, it is intended that an additional meeting of the Joint Scrutiny body would be called to consider the matter. Having a mechanism and a pre-selected pool of members 'waiting

in the wings' will hopefully prevent the uncertainty and risk to delivery of SWB business that arose earlier in the year.

Next Steps

If members are minded to agree the recommendations of this report, the Scrutiny Committee will appoint 2 non-executive members and one nominated substitute member to a Joint Scrutiny Panel with the aim of meeting for the first time in December.

Once the principle of establishing more effective joint Scrutiny arrangements has been agreed, the relevant officers will work on devising the Terms of Reference for the first meeting of the informal Joint Scrutiny Committee to agree.

Financial Implications

South Somerset District Council's Scrutiny function will support any proposed Joint Scrutiny arrangements and Somerset County Council have agreed to provide meeting facilities. SSDC would wish to carry out the Scrutiny activity outlined in this report even if no joint scrutiny arrangements are put in place, therefore, supporting the proposals of this report would represent, little, if any additional commitment of Scrutiny resources.

Background Papers: *None*
