



Appendix to Cabinet Report

AGENDA ITEM: 12

EXECUTIVE OVERVIEW AND SCRUTINY COMMITTEE:

4 DECEMBER 2008

Report of: Council Secretary and Solicitor

Contact: Mrs. S. Griffiths (Extn. 5017)
(E-mail: susan.griffiths@westlancsdc.gov.uk)

**SUBJECT: LEADER AND PORTFOLIO HOLDER ATTENDANCE AT EXECUTIVE
OVERVIEW AND SCRUTINY COMMITTEE MEETINGS**

District wide interest

1.0 PURPOSE OF THE REPORT

1.1 To consider the attendance of the Leader and Portfolio Holders at meetings of Overview and Scrutiny Committees.

2.0 RECOMMENDATIONS

2.1 That the Committee's instructions are requested.

3.0 BACKGROUND

3.1 The issue of the Leader and Portfolio Holder attendance at Overview and Scrutiny Committee meetings has been raised.

4.0 CURRENT POSITION

4.1 The Constitution

In accordance with longstanding arrangements set out in the Constitution the Leader and Portfolio Holder routinely attend Overview and Scrutiny Committees. This position has previously been reviewed by Members.

4.2 Code of Conduct/Local Government Act 2000

The Code of Conduct states that a Member has a prejudicial interest in any business before an overview and scrutiny committee where that business relates to a decision made (whether implemented or not) or action taken by Cabinet or Committee, sub-committee, joint committee or joint sub-committee and at the time the decision was made or action taken you were a member of the Cabinet, committee, sub-committee, joint committee etc.. and you were present when that decision was made or action taken.

However, the view is taken that the Code of Conduct is overridden by Section 21(13) of the Local Government Act 2000 which provides that an overview and scrutiny committee of a local authority or a sub-committee of such a committee:-

- a) may require members of the executive, and officers of the authority, to attend before it to answer questions, and
- b) may invite other persons to attend meetings of the committee

Section 21(13)(a) obliges an executive member to attend an overview and scrutiny meeting to answer questions so this over-rides any code provision which might prevent that happening.

Section 21(13)(b) also allows an overview and scrutiny committee to invite any person to attend to answer questions. Where such a committee extend such an invitation to a members who is on a committee and was involved in making a decision which is being scrutinised, and that member is asked to attend a private session to answer questions about that decision, the Standards Board for England is not likely to be interested in any complaint made about that member having a prejudicial interest by so doing.

5.0 ISSUES

- 5.1 Members may wish to consider again whether the presence of the Leader and Portfolio holders at Overview and Scrutiny Committees is appropriate.

6.0 PROPOSALS

- 6.1 Any proposals the Committee may have would have to be considered by Council.

7.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 7.1 Enhanced Overview and Scrutiny arrangements can give a greater level of involvement for non-cabinet members in the decision making process.

8.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 8.1 There are no significant financial or resource implications arising from this report.

9.0 RISK ASSESSMENT

9.1 There are no significant risk assessment implications.

10.0 CONCLUSIONS

10.1 Member guidance as to the future involvement of the Leader and Portfolio Holders is requested.

10.2 Any amendments to the Constitution will require a report to Council.

Background Documents

*There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is no evidence from an initial assessment of an adverse impact on equality in relation to the equality target groups.

Appendices

None