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| MEETING: | AUDIT AND GOVERNANCE COMMITTEE |
| DATE: | 21 SEPTEMBER 2012 |
| TITLE OF REPORT: | REVIEW OF OVERVIEW AND SCRUTINY STRUCTURE |
| REPORT BY: | MONITORING OFFICER |

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

To consider proposed changes to the Overview and Scrutiny Structure.

(These changes involve alternative arrangements for the purposes of the Local Authorities (Committees and Political Groups) Regulations 1990.)

Recommendation(s)

THAT: it be recommended to Council that:

- (a) the recommendations of the report on the Overview and Scrutiny (O&S) Function as set out at pages 3-4 of appendix 1 to this report be adopted;**
- (b) the authority to exercise the Authority's statutory health scrutiny functions be delegated to the Health and Social Care Overview and Scrutiny Committee;**
- (c) the Terms of Reference of the General Overview and Scrutiny Committee and the Health and Social Care Overview and Scrutiny Committee be as set out at paragraph 23 of the report ;**
- (d) each Overview and Scrutiny Committee consists of 13 Councillors and seats on each Committee be allocated by political proportionality as set out at paragraph 13 of the report appointments to those seats to be confirmed by Group Leaders;**
- (e) the change to two Overview and Scrutiny Committees takes effect from Monday 15 October 2012;**
- (f) Council approves the appointments to the offices of Chairman and Vice-Chairman of the General Overview and Scrutiny Committees and the Health and Social Care Scrutiny Committee;**

- (g) **statutory co-optees serve on the General Overview and Scrutiny Committee;**
- (h) **the operating principles set out at paragraph 18 of the report form the basis of the new scrutiny model;**
- (i) **the rules of proportionality are not applied to Task and Finish Groups appointed by either of the two Overview and Scrutiny Committees;**
- (j) **the Head of Governance be designated as the Authority's statutory Scrutiny Officer; and**
- (k) **the Monitoring Officer be authorised to make any consequential amendments to the Constitution.**

Key Points Summary

- Council in May 2011 agreed a revised Structure for the Overview and Scrutiny Function. At Council in July 2011 the Leader committed to ensuring a review of the effectiveness of the new scrutiny model was undertaken after twelve months of operation.
- Members of the Overview and Scrutiny Committee have expressed a number of concerns about the new model over the first year. .
- The principal proposal is that two Overview and Scrutiny Committees are established each with a Chairman and Vice-Chairman. The proposed Committees are: a Health and Social Care Overview and Scrutiny Committee and a General Overview and Scrutiny Committee that deals with all other matters.
- The report outlines a number of other measures to give effect to the principal proposal above.
- To ensure a smooth transition to a new scrutiny model it is proposed that this takes effect on 15 October 2012.
- It is proposed to designate the Head of Governance as the Authority's Scrutiny Officer.

Alternative Options

- 1 A number of alternative structures could be considered.

Reasons for Recommendations

- 2 The recommendations have been put forward following a review of the effectiveness of the new scrutiny model that it was agreed would be undertaken after twelve months of operation. The recommendations respond to concerns by Members of the Overview and Scrutiny Committee that the current system is proving impractical given the complexity and volume of Scrutiny work and the findings of an external review.

Introduction and Background

- 3 Council in May 2011 agreed a revised Structure for the Overview and Scrutiny (O and S) Function.
- 4 Under the structure in place prior to May 2011 O and S was undertaken by the Overview and

Scrutiny Committee (OSC), supported by a number of themed Scrutiny Committees.

- 5 The structure approved in May 2011 consists of one politically proportionate O and S Committee with the power to set up task and finish groups, with six vice-Chairmen each responsible for a particular themed area. The Statutory Education Co-optees sit on the O and S Committee.
- 6 At Council in July 2011 the Leader committed to ensuring a review of the effectiveness of the new scrutiny model was undertaken after twelve months of operation.

Key Considerations

- 7 Members of the OSC have expressed a number of concerns about the new scrutiny model during its first year of operation. They held a Scrutiny workshop on 27 April 2012 at which a proposal for structural change and the establishment of three scrutiny Committees emerged.
- 8 Members and Officers were informed of the issues raised at the workshop (including the proposed new scrutiny structure) and invited to comment.
- 9 Subsequently the Chairman and Vice-Chairman of the Committee supported a model based on two scrutiny committees and this formed the basis of an external review undertaken by Mr John Lamb. The report of this review (Update Report on the O and S Function in Herefordshire Council 2012 is appended. Mr Lamb had conducted a previous review of the Council's scrutiny function (December 2008) and recommendations in that review had underpinned the decision by Council to change its scrutiny model in May 2011. This report is available on the Council's website alongside the agenda papers.

Membership of Committees

- 10 The Localism Act 2011 (Schedule 2 part1) continues the provision in the Local Government Act 2000 that O&S Committees should be politically proportionate by virtue of the insertion of Section 9FA into the 2000 Act.
- 11 In determining the allocation of seats on a politically proportionate basis the Council must apply the following four principles as far as reasonably practicable:
 - (a) that not all the seats on the body are allocated to the same political group;
 - (b) that the majority of the seats on the body is allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;
 - (c) subject to paragraphs (a) and (b) above, that the number of seats on the ordinary committees of a relevant authority which are allocated to each political group bears the same proportion to the total of all the seats on the ordinary committees of that authority as is borne by the number of members of that group to the membership of the authority; and
 - (d) subject to paragraphs (a) to (c) above, that the number of the seats on the body which are allocated to each political group bears the same proportion to the number of all the seats on that body as is borne by the number of members of that group to the membership of the authority.
- 12 An arithmetic calculation of the number of seats allocated to a particular group is unlikely to result in a set of whole numbers. The 1989 Act gives no guidance on the correct approach in these circumstances, leaving authorities to follow the principles "as far as reasonably practicable". For the purposes of this report, it is assumed that part numbers of 0.5 and above

will be rounded up, while part numbers below 0.5 will be rounded down

- 13 Under the Council's current composition, if all four Political Groups on the Council were to be represented on each O and S Committee, the minimum size a Committee can be is 13. This would mean each Committee having 7 Conservative Group Members, 3 Independent Group Members, 2 It's Our County Group Members and 1 Liberal Democrat Group Member.
- 14 The Constitution provides that Council must appoint the Chairmen and Vice-Chairmen of the Committees.

Statutory Co-optees

- 15 The Council is required to include diocesan and parent governor representatives with voting rights on an O and S Committee dealing with education functions. The Council has two diocesan representatives and three parent governor representatives.
- 16 It is acknowledged that the move to a single O and S Committee has made the role of the statutory co-optees less attractive than it was when there was a dedicated Children's Services Scrutiny Committee. Under the proposal above education matters would fall to be dealt with by the General OSC and it is proposed that the statutory co-optees would therefore sit on that Committee with voting powers on educational matters only.

Operating Principles

- 17 The recommendations in the Lamb 2012 Update Report identified the need for further work on the detailed arrangements and proposed the establishment of a working party to consider how to implement the recommendations.
- 18 The following operating principles are proposed at this stage:
 - To minimise bureaucracy the two Committees would be independent of each other. Each Committee would have the authority to make recommendations direct to the Executive, Council and others.
 - Each Committee would approve its own work programme.
 - Call-ins would be heard by the relevant Overview and Scrutiny Committee on the basis that this will provide the most effective challenge as the Members of each Committee develops its specialist knowledge.
 - The Chairmen of the General Overview and Scrutiny Committee and the Health Overview and Scrutiny Committee would by agreement manage any potential overlap between the two Committees and with the work of the Audit and Governance Committee.
 - Each Committee would have a Chairman and a Vice-Chairman.
 - Task and Finish Groups would be established by each Committee drawn from the Committee membership and the wider non-executive membership of the Council. As appropriate, people with specialist knowledge and or expertise could be co-opted to support the task. Co-opted members of Task and Finish Groups would not have voting powers. The relevant Overview and Scrutiny Committee would seek someone to lead a Task and Finish Group as and when each one is established. The nature of the work of Task and Finish Groups is that they are advisory and the rules of proportionality apply unless the Council makes alternative arrangements. Council would be required to approve this proposal with no Member voting against it.

Future Operating Model

- 19 With the introduction of an amended scrutiny model will come a requirement to review how scrutiny is approached within the Council. The previous approach to scrutiny has been based on a very much all encompassing model, whereby the Committee and the Task and Finish Groups have tried to cover a very wide area of work and have not been strategically focused. An extensive work programme has therefore evolved on an ad hoc basis and without clearly defined outcomes. This has been difficult to resource effectively. It has also required an enormous amount of Members time and commitment.
- 20 The future operating model will need to be much more strategically focused and the Committee will need to clearly define their purposes from the outset.

Training and Development

- 21 It is recognised that a training and development programme needs to be developed to support Members in their O and S role.

Member Allowances

- 22 If accepted the proposals will require the Independent Remuneration Panel to meet to consider the appropriate level of special responsibility allowances.

Constitutional Changes required

- 23 Under the Functions Scheme at Part 3 of the Constitution Council is responsible for setting the terms of reference of Committees, deciding on their composition and allocating seats on them.
- 24 The Functions Scheme will require slight amendment to reflect the roles of the two Committees.
- 25 Draft terms of reference for the two Committees are as follows:

| Committee | Remit |
|--|---|
| General Overview and Scrutiny Committee | Functions conferred on or exercisable by the Council in its capacity as a local education authority; Budget and Policy Framework Issues Any other matter not reserved to the Health and Social Care Scrutiny Committee. |
| Health and Social Care Overview and Scrutiny Committee | To discharge the Council's statutory health scrutiny powers including the review and scrutiny of any matter relating to the planning provision and operation of health services affecting the area and to make reports and recommendations on these matters. Overview and scrutiny of: |

| | |
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| | <ul style="list-style-type: none"> • Children and Adult Safeguarding • Social care functions relating to children • the Health and Wellbeing Board • any other matters relating to health and social care |
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Transitional Arrangements

- 26 Meetings of the current O and S Committee are scheduled to take place on 3 and 12 October. If the proposals in this report are accepted, some further preparatory work needs to be undertaken to establish the two new Committees. It is therefore proposed that the meetings on 3 and 12 October are conducted by the O and S Committee as currently constituted and that the introduction of a new scrutiny model should take effect from 15 October 2012.

Designation of Scrutiny Officer

- 27 The Local Democracy, Economic Development and Construction Act 2009 required the Council to formally designate one of their officers as the authority's statutory "scrutiny officer". In May 2010 Council approved a number of changes to the Constitution including the designation of the Deputy Chief Executive as Statutory Scrutiny Officer.
- 28 The Localism Act 2011 (Schedule 2 part1) continues this provision by virtue of the insertion of Section 9FB into the Local Government Act 2000. The designated officer is required to discharge the following functions:
- (a) to promote the role of the authority's O and S committee or committees;
 - (b) to provide support to the authority's O and S committee or committees and the member of that committee or committees
 - (c) to provide support and guidance to : (i) members of the authority, (ii) members of the Executive of the authority, and (iii) Officers of the authority – in relation to the functions of the authority's O and S committee or committees.
- 29 Although the post of the authority's Scrutiny Officer is a statutory post it is not subject to the same recruitment and discipline procedures as the Council's other statutory posts. The statutory scrutiny officer role must, however, be recognised within the council's constitution and designated to a post.
- 30 The authority may not designate the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer as the authority's Scrutiny Officer.
- 31 The role has to date sat with the Deputy Chief Executive. It is proposed that the Head of Governance be designated as the authority's Scrutiny Officer.

Community Impact

- 32 One of the recommendations in the update report identifies the need for the scrutiny function to identify and prioritise the issues and concerns of the people of Herefordshire and the strategic issues which are key to the Council's delivery of its corporate objectives and

concentrate on these.

Equality and Human Rights

33 The proposals in this report have no particular implications for equality and human rights.

Financial Implications

34 The financial implications of the proposals in this report will be met from within existing budgets.

Legal Implications

35 The Localism Act 2011 requires local authorities, which are operating executive arrangements to set up one or more O and S committees. The proposals in the report are consistent with that requirement. The Health and Social Care Act 2012 confers health scrutiny functions on the local authority itself, rather than on an O and S committee specifically. It is for the full council of each local authority to determine which arrangement is adopted. The Health and Social Care Scrutiny Committee would be an appropriate place for the Council to delegate its statutory health scrutiny powers.

Risk Management

36 The Council is required to have an O and S function. The proposals in this report are designed to ensure that this will operate effectively.

Appendices

Update Report on the Overview and Scrutiny Function in Herefordshire Council – John Lamb August 2012

Background Papers

- Review of the Overview and Scrutiny Function in Herefordshire Council – December 2008 by John Lamb and Mari Davis