

Update Report on the Overview and Scrutiny Function in Herefordshire Council

August 2012

Herefordshire Council Update Report on the Overview and Scrutiny Function

1. Introduction and Background

During 2008 a review of the overview and scrutiny function was carried out at Herefordshire Council (Review of the Overview and Scrutiny Function in Herefordshire Council – December 2008 – herein-after referred to as the 2008 Review) . The Council has since commenced implementation of some of the key recommendations of the report and has also carried out an internal review of the effectiveness of the scrutiny function. Following the 2011 elections changes were made to the structure of overview and scrutiny and further changes are now proposed. This Update Report has been commissioned by the Council and its purpose is to provide commentary on how the current proposals are viewed by councillors, review progress that has been made since the 2008 report and make recommendations on the most effective way of taking scrutiny forward in Herefordshire. It is recommended that this Update Report is read in conjunction with the 2008 Review since some of the recommendations of the Update Report are supported by findings outlined in the 2008 Review. The recommendations from the 2008 Review are shown at Appendix 1.

2. Acknowledgements

The review was carried out with the very full and excellent co-operation of the Council at member and officer level and the author of this report would like to place on record thanks to all those who contributed to the process in such an open way. Organisational help and assistance was provided by Mr Tim Brown and for this the author is grateful.

3. Methodology and Approach

The update review was carried out in three phases: a short document review, on site meetings and discussions with individuals and groups and finally the ‘write up’ phase. The people who contributed to individual and group discussions during phase two of the update review is shown in Appendix 2 to this report. Responses from the on-site meetings and discussions have been used to inform the commentary and observations contained in this report and fall into four broad areas:

- Role and Purpose of Overview and Scrutiny
- Proposed Structure
- Managing Changes to the Overview and Scrutiny arrangements and relationship with Cabinet.
- Overview and Scrutiny’s Vision, the Annual Work Programme and Protocols

Where appropriate this report contains references to and extracts from the 2008 Report and are only included where this re-enforces a point or avoids the need to repeat an argument.

4. Executive Summary / Recommendations

A good understanding of the role and purpose of overview and scrutiny in the context of the overall governance arrangements of the Council is fundamental to good progress. Arguably, the structure of the overview and scrutiny function matters less. With the right approach it is possible to make the existing structure work well but a ‘flawed’ understanding of the purpose of scrutiny will always act as a barrier to progress.

The current proposals for structural changes are in line with the original recommendation and the reasons set out in the 2008 Report and should be welcomed. The establishment of a health and social care scrutiny committee recognises the huge changes occurring in the sector and would be the natural place for the Council to delegate its statutory health scrutiny powers. The emphasis on ‘task and finish’ groups is in line with good practice and would enable councillors to join a group working on a particular topic according to personal motivation, interest and perhaps prior or current expertise.

The proposals for further changes to the scrutiny structure should be made more widely available and consideration given to the establishment of a working party consisting of Party Leaders and the Chair and Vice Chair of Scrutiny with appropriate officer support to work out what needs to happen to implement the recommendations of this Update Report.

During interviews both councillors and officers commented that scrutiny appeared to have lost its way. There is a sense that there is no clear vision for Scrutiny and that councillors are not clear about where scrutiny is ‘heading for’. None of this is surprising given the ‘tension’ that exists between those who wish to revert to the thematic committee arrangements covering the breadth of council services and those who wish to see the scrutiny function doing far less but what is done, done very well. These two different approaches are difficult to reconcile but a resolution is crucial to making good progress.

The Recommendations:

- 1. That work be undertaken by O&S scrutiny chairs and cabinet members to identify and be clear about roles and responsibilities in relation to the role and purpose of the O&S function and Cabinet arrangements. (from 2008 Review)**
- 2. That methods, outside the overview and scrutiny arrangements, be developed to ensure that all councillors have opportunities to gain an understanding of the way the Council and its partners function.**
- 3. That the proposals for the establishment of two main scrutiny committees – one for health and social care and the other a general overview and scrutiny committee each with the ability to hold ‘task and finish groups’ as required**

- to undertake more detailed projects identified from the approved work programme be accepted.**
- 4. That further work be undertaken to work out and agree the detailed arrangements for the proposed overview and scrutiny structure e.g. political proportionality etc.**
 - 5. That a working party consisting of Party Leaders and the Chair and Vice Chair of Scrutiny with appropriate officer support be established to work out what needs to happen to implement the recommendations of this Update Report and the relevant recommendations of the 2008 Review.**
 - 6. That the working party established at recommendation 5 consider and agree the appropriate arrangements for on-going regular Scrutiny / Cabinet liaison.**
 - 7. That the Scrutiny function leads an annual process 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.**
 - 8. That existing processes and protocols are reviewed and/or developed that support a disciplined approach to the delivery of the Annual Overview and Scrutiny Work Programme (e.g. topic selection criteria, scoping, terms of reference, variations etc.)**

5. Findings

5.1 Role and Purpose of Overview and Scrutiny

Scrutiny – a simple definition

To look at the quality of council services and other issues that affect the lives of people in Herefordshire.

Scrutiny will listen to the concerns of local people to check out how the council and other organisations are performing and where necessary recommend improvement.

(from a training session for Herefordshire Council 2009)

The 2008 Report found that “There are some good examples of scrutiny review work that has been of value, interest and concern to the communities served by the Council (Day care services review, younger people’s transition from younger people’s services to adult social care). Members of the public are always given an opportunity to ask questions at the commencement of each formal meeting of O&S committees. These practices need to be built upon. Chairs and Vice chairs of O&S committees need to reflect on whether the

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current approach to O&S agendas, which tends to very much mirror the work of the Cabinet, is diverting energy and attention away from addressing the concerns of the people of Herefordshire. Are members giving ‘voice’ to the issues that matter most to residents on an everyday basis? A theme that emerged from interviews and group discussion was that O&S need to “do less better”.

(Review of the Overview and Scrutiny Function in Herefordshire Council – December 2008 – p. 10)

A good understanding of the role and purpose of overview and scrutiny in the context of the overall governance arrangements of the Council is fundamental to good progress. Arguably, the structure of the overview and scrutiny function matters less. With the right approach it is possible to make the existing structure work well but a ‘flawed’ understanding of the purpose of scrutiny will always act as a barrier to progress.

From interviews with councillors, while some are very keen to see changes to the way scrutiny is conducted in the council there is still a strong sense that there is a need for an approach that ensures that all aspects of the work of the cabinet is ‘shadowed’. During interviews the view was expressed that councillors need to understand how the council works and that it is important that councillors gain service specific knowledge. The rationale for this is that only then can effective scrutiny be carried out. Frequently mentioned was the need for ‘thematic’ committees as the vehicle for both ensuring councillors gain the necessary knowledge and the means by which scrutiny is undertaken. There remains a tendency for councillors to request reports and information in pursuit of a ‘monitoring’ role. Some councillors seem to be concerned that unless this wide ranging monitoring and questioning of decisions is carried out then they may miss something serious but this is to misunderstand the role and purpose of the overview and scrutiny function.

The Local Government Act of 2000, provided for, among other governance arrangements, a cabinet system supported by overview and scrutiny arrangements. Decision making service committees were abolished. Herefordshire Council opted for the cabinet system whereby decision making is limited to a number of councillors appointed to the cabinet with limited referrals to full Council. A challenge for all councils, opting for the cabinet system, was the development of effective and meaningful scrutiny to be carried out by ‘non-executive’ councillors. By definition the adoption of the cabinet system means that ‘non-executive’ councillors are considerably less involved in decision making when compared to the pre-2000 Act arrangements i.e. decision making service committees. The Council’s constitution prescribes the decisions that need to be made by full Council – approval of the Council’s annual budget being one of these. The question raised by councillors about how they and especially new councillors learn about local government is a valid one and is asked in many local authorities. Indeed it is one of the criticisms of the cabinet system but scrutiny should not be seen as the place where councillors gain their general knowledge. The Council needs to think about how this requirement can be better met.

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Councillors, including cabinet members, need to develop their thinking about the fundamental purpose of overview and scrutiny and this needs to be done in the light of the reality of the governance arrangements that the council has adopted.

The 2008 Report made the following recommendation “ *ii) That work be undertaken by O&S scrutiny chairs and cabinet members to identify and be clear about roles and responsibilities in relation to the role and purpose of the O&S function and Cabinet arrangements.*”

It appears that this remains a fundamental issue and the recommendation still stands but should be pursued in the light of the comments above. For clarity, it is not the responsibility of overview and scrutiny to provide a comprehensive performance monitoring role. What would be more appropriate is for scrutiny to check out what arrangements the Council and cabinet have in place for monitoring performance (seeking assurance) rather than actually doing it. That is not to say that there is no role for scrutiny in monitoring because that is not the case. Scrutiny has a key role to play in budget monitoring. Scrutiny needs to be very selective about the work it undertakes. Scrutiny does not have regulatory responsibilities. Ultimate accountability for the effective delivery of services is with the Cabinet in the case of Herefordshire Council and its partner organisations such as the NHS, Police and so on.

Recommendations:

- 1. That work be undertaken by O&S scrutiny chairs and cabinet members to identify and be clear about roles and responsibilities in relation to the role and purpose of the O&S function and Cabinet arrangements. (from 2008 Report)**
- 2. That methods, outside the overview and scrutiny arrangements, be developed to ensure that all councillors have opportunities to gain an understanding of the way the Council and its partners function.**

5.2 Proposed Structure

The proposed structure further develops changes to the Overview and Scrutiny structure that was approved by the Council in May 2011. It is proposed that the current structure of a single scrutiny committee supported by thematic ‘task and finish’ groups is replaced by two main scrutiny committees – one for health and social care and the other a general overview and scrutiny committee each with the ability to hold ‘task and groups’ as required to more detailed projects identified from the approved work programme.

A number of councillors expressed concerns about the proposed structure which is explored in section 5.1 above and a suggestion was made to create further ‘thematic’ committees. However there was also support for the proposed arrangements and a

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comment was made that ‘let’s leave things as they are and just make scrutiny work better’.

The 2008 Review made the following recommendation: v) *That the Member organisation of O&S be reviewed with an emphasis on moving more towards Task and Finish groups and away from the existing formal committee structure. (a phased approach may be helpful here perhaps with an annual review to evaluate the effectiveness of changes made)*

This recommendation was mindful of the then structure in place (Strategic Monitoring Committee supported by thematic scrutiny committees). The recommendation was supported in the 2008 Report with the following:

“ The format and organisation of O&S committees has an impact on how business is conducted. For example, formal committee style meetings will tend to lead to formal committee style approaches to how business is conducted (officer reports, minutes, requests to officers for more information, monitoring etc.). On the other hand Task and Finish groups consisting of a smaller number of members and officers with a specific task and a short time scale will tend to operate in a very different way to that of a committee. The Task and Finish approach usually leads to research, interviewing of witnesses / specialists, focused discussion, deeper understanding and with members heavily involved in the production of the report. We heard comments from members that when they have worked in a ‘task and finish’ format they found this approach much more rewarding and productive.” (Review of the Overview and Scrutiny Function in Herefordshire Council – December 2008 – p. 11)

The current proposals are in line with the original recommendation and the reasons set out in the 2008 Report and should be welcomed. The establishment of a health and social care scrutiny committee recognises the huge changes occurring in the sector and would be the natural place for the Council to delegate its statutory health scrutiny powers.

The emphasis on ‘task and finish’ is in line with good practice and would enable councillors to join a group working on a particular topic according to personal motivation, interest and perhaps prior or current expertise. As the work of the ‘task and finish’ groups concludes then the group can be dissolved then ‘re-constituted’ according to the next new topic. This would enable the more agile moving ‘quickly and lightly’ from topic to topic as described by one councillor during the interviews. It is more likely that the proposed structure will result in more satisfying roles for scrutiny councillors as the ‘task and finish’ group focuses on a topic and is able to get under the surface of issues and gain deeper and better understanding of the subject resulting in better and clearer recommendations to cabinet and other partner organisations.

The proposals are at an early stage but were questioned by some councillors around the working detail and this should be addressed before full Council approval is sought. For example, are the Chairs of the two main committees of equal standing? Whilst it was accepted that there would be a need for political proportionality on the main committees

does this apply to the task and finish groups? Delegation of the Council’s health scrutiny powers (the Council may wish to be mindful of the current Department of Health Local Authority Health Scrutiny Consultation proposals published on 12th July 2012)

Recommendations:

- 3. That the proposals for the establishment of two main scrutiny committees – one for health and social care and the other a general overview and scrutiny committee each with the ability to hold ‘task and finish groups’ as required to undertake more detailed projects identified from the approved work programme be accepted.**
- 4. That further work be undertaken to work out and agree the detailed arrangements for the proposed overview and scrutiny structure e.g. political proportionality etc.**

5.3 Managing Changes to the Overview and Scrutiny arrangements and relationship with cabinet.

A number of councillors commented on the way the changes to the scrutiny structure had been made following the 2011 elections. There was a sense that the new arrangements had been quickly imposed thereby removing the opportunity to comment. It is helpful that a review after 12 months was promised and this Update Report forms part of that review. The proposals for further changes to the scrutiny structure should be made more widely available and consideration given to the establishment of a working party consisting of Party Leaders and the Chair and Vice Chair of Scrutiny with appropriate officer support to work out what needs to happen to implement the recommendations of this Update Report.

Recommendation:

- 5. That a working party consisting of Party Leaders and the Chair and Vice Chair of Scrutiny with appropriate officer support be established to work out what needs to happen to implement the recommendations of this Update Report and the relevant recommendations of the 2008 Review.**

The internal Herefordshire Council report (Review of the Overview and Scrutiny Structure page 5) draws attention to the relationship between scrutiny and cabinet. There are many ways in which this can be carried out from an informal monthly meeting between the Chair of Scrutiny and the Leader of the Council to a more formal meeting of a larger group representing Scrutiny and the Cabinet. The ‘rolling programme’ appears to offer an opportunity for Cabinet to inform and discuss with Scrutiny future challenges facing the Council and what opportunities there might be for Scrutiny input to policy development [as long as this does not become the norm (see boxed extract below) i.e. Scrutiny must be selective about the areas it chooses to engage with].

The 2008 Review commented:

Cabinet members do involve O&S and invite early participation in the development of policy. This is a good approach since many O&S members complain that by the time they get involved with a major policy area, very often it is too late to influence the outcome. However, care needs to be taken that by involving O&S in policy development and “getting too close to the decision making” that O&S then finds it difficult to effectively challenge.

(Review of the Overview and Scrutiny Function in Herefordshire Council – December 2008 – p. 6)

It is good practice to periodically review the effectiveness of scrutiny, against agreed criteria (the Centre for Public Scrutiny has such a tool) and such reviews should involve all councillors and chief officers of the Council.

Recommendation:

- 6. That the working party established at recommendation 5 consider and agree the appropriate arrangements for on-going regular Scrutiny / Cabinet liaison.**

5.4 Overview and Scrutiny’s Vision, the Annual Work Programme and Protocols

During interviews both councillors and officers commented that scrutiny appeared to have lost its way. There is a sense that there is no clear vision for Scrutiny and that councillors are not clear about where scrutiny is ‘heading for’. None of this is surprising given the ‘tension’ that exists between those who wish to revert to the thematic committee arrangements covering the breadth of council services and those who wish to see the scrutiny function doing far less but what is done, done very well. These two different approaches are difficult to reconcile. To the ‘Thematic Committee’ lobby the annual work programme with the associated restriction on what is included will never make complete sense while to the ‘Less is More’ lobby there will be continual frustration as colleagues call for reports and further information in an effort to monitor the work of the Cabinet. There is a need for the Political Leadership of the Scrutiny Function to be clear and firm and provide direction. To a large extent councillor and officer resources will determine how much scrutiny work can be practically covered in any twelve month period. The Scrutiny function is not able to do all that it might wish to. By necessity there is a need for focus on the things that really matter to the delivery of services to the people of Herefordshire and this implies the need for very careful selection and prioritisation of topics. Once the annual work programme is agreed the Chairs of the scrutiny committees need to be very disciplined about any additions / variations to the topic scope.

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The 2008 Review made the following two recommendations in this connection: *i) That the SMC and thematic O&S committees continue to review the business they regularly deal with and identify the strategic issues which are key to the Council's delivery of its corporate objectives and concentrate on these. (This recommendation is concerned with 'internally' facing issues such as budget and performance management – see recommendation vi for 'externally' facing issues)*

And *vi) That a process be developed for determining and reviewing the annual programme for each O&S that captures the concerns of residents and communities of Herefordshire (sources could include the Councils own complaints recording system, matters arising during councillors surgeries, councillors own knowledge of issues. The PACT meetings will be a source of community concerns as will be the 'Leadership of Place' work proposed for the Council. A very effective method of capturing issues is by getting members into groups to identify the issues that matter to their constituents. (This recommendation is concerned with 'externally' facing issues that matter to communities – see recommendation i for 'internally' facing issues)*

The 2008 recommendations remain valid but are now updated as follows:

Recommendation:

- 7. That the Scrutiny function leads an annual process 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.**

If the Scrutiny function is to remain focused and deliver its work programme then the function needs to be supported by a robust set of protocols. The 2008 Review in recognising this made the following recommendation: *vii) That any existing protocols for developing O&S recommendations be reviewed for clarity and effectiveness and that a process be agreed between O&S and the Cabinet which covers timescales for, responses to, reaching consensus and monitoring of recommendations.*

In addition to this recommendation and in support of a more disciplined approach in support of delivering a focused work programme the following recommendation is made:

Recommendation:

- 8. That existing processes and protocols are reviewed and/or developed that support a disciplined approach to the delivery of the Annual Overview and Scrutiny Work Programme (e.g. topic selection criteria, scoping, terms of reference, variations etc.)**

Appendix 1

Review of the Overview and Scrutiny Function in Herefordshire Council – December 2008 - Recommendations

- i) That the SMC and thematic O&S committees continue to review the business they regularly deal with and identify the strategic issues which are key to the Council's delivery of its corporate objectives and concentrate on these. (This recommendation is concerned with 'internally' facing issues such as budget and performance management – see recommendation vi for 'externally' facing issues)
- ii) That work be undertaken by O&S scrutiny chairs and cabinet members to identify and be clear about roles and responsibilities in relation to the role and purpose of the O&S function and Cabinet arrangements.
- iii) That protocols be enhanced or developed which clearly set out the role of O&S in the development of policy areas in a manner which does not compromise the ability of O&S to challenge effectively.
- iv) That O&S members be provided with training to improve the effectiveness of challenge through appropriate techniques such as questioning and analytical skills and improved understanding of the subject areas covered by the various O&S committees.
- v) That the Member organisation of O&S be reviewed with an emphasis on moving more towards Task and Finish groups and away from the existing formal committee structure. (a phased approach may be helpful here perhaps with an annual review to evaluate the effectiveness of changes made)
- vi) That a process be developed for determining and reviewing the annual programme for each O&S that captures the concerns of residents and communities of Herefordshire (sources could included the Councils own complaints recording system, matters arising during councillors surgeries, councillors own knowledge of issues. The PACT meetings will be a source of community concerns as will be the 'Leadership of Place' work proposed for the Council. A very effective method of capturing issues is by getting members into groups to identify the issues that matter to their constituents. (This recommendation is concerned with 'externally' facing issues that matter to communities – see recommendation i for 'internally' facing issues)
- vii) That any existing protocols for developing O&S recommendations be reviewed for clarity and effectiveness and that a process be agreed between O&S and the Cabinet which covers timescales for, responses to, reaching consensus and monitoring of recommendations.
- viii) That consideration be given to the appointment of a dedicated Overview and Scrutiny Manager at an appropriate grade and level within the organisational structure that reflects the value and importance attached to the O&S function by the Council.

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ix) That a Chairs and Vice Chairs Group (Overview and Scrutiny Committees) be established to discuss and debate and take forward and oversee the improvement agenda. (Chairs and Vice Chairs currently make up the SMC. The recommendation here is about that group meeting in a far less formal, facilitated style to encourage an exchange of views and deeper discussion about how the O&S function can be even more effective).

x) That the Councils own free publication contains, on a regular basis, articles about the work of overview and scrutiny related to outcomes with which the people of Herefordshire can identify.

Appendix 2

Those Interviewed

REVIEW OF HEREFORDSHIRE SCRUTINY MODEL

13-14 August 2012

Timetable

(Phone Call to Jo Davidson (Director of People’s Services) - 2 August)

(Phone Call from Dean Taylor (Deputy Chief Executive – Director of Corporate Services)- 10 August 2.00 pm)

Monday 13 August

Time	Interviewee (s)	Room
9.15	Tim Brown re administrative arrangements	
9.30 – 10.30	John Jones (Head of Governance)	19A
10.30-11.30	Councillor Bob Matthews (Leader of Independent Group)	19A
11.30-12.30	Councillor Jeremy Millar (Vice-Chairman Overview and Scrutiny Committee – with responsibility for Health and Wellbeing theme)	19A
Lunch		
1.30 – 2.30	Councillor Terry James (Liberal Democrat Group Leader)	19A
2.30-3.30	Phone call to Councillor Alan Seldon (Chairman of the Overview and Scrutiny Committee)	19A
3.30 – 5.30	Session with Members of Overview and Scrutiny Committee (Cllrs Andrew Atkinson, Phil Bettington, Sebastian Bowen, Mark Cooper, Mark Hubbard, Roger Hunt, Peter Jones, Jim Kenyon, and Jeremy Millar)	22A or Council Chamber depending on numbers

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Tuesday 14 August

Time	Interviewee (s)	Room
9.30 – 10.30	Councillor Mark Hubbard (It's Our County Group Leader)	19A
10.30-11.30	Tim Brown/ Paul James/David Penrose	19A
11.30-12.00	Free	
12-1	Geoff Hughes (Director for Places and Communities)	19A
Lunch		
1.30 – 2.30	Councillor John Jarvis (Leader)	Leader's Office
2.30-3.30	Cabinet Members Russell B Hamilton (Environment Housing and Planning) Patricia Morgan (Health and Wellbeing) Graham Powell (Education and Infrastructure) Phillip Price (Corporate Services – Deputy Leader)	19A
3.30 – 4.30	Dean Taylor	19A