

Title of report: Role and Development of the Scrutiny Function

Meeting: Scrutiny Management Board

Meeting date: 5 September 2022

Report by: The Statutory Scrutiny Officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose:

This report provides an update to the Scrutiny Management Board on the ongoing development of the scrutiny function at the council.

Recommendation(s)

That the general role and remit of the scrutiny committees and progress in the development of the scrutiny function be noted, and the Key Objectives for 2022-2023 for the council's Scrutiny Committees (set out at Appendix 2 of the report) and the council's Scrutiny Committees Key Objectives 2022-2023 with identified outputs and activities (set out at Appendix 3 of the report) be agreed.

Alternative options

1. There are no alternatives to the recommendations; the Scrutiny Management Board is to provide strategic management, direction and coordination of the council's five scrutiny committees. In developing this remit, it will require scrutiny committees to help implement its priorities and work programming activities.

Key considerations

2. On 11 October 2019, full Council resolved to review its governance arrangements to investigate and explore options for the future. The underpinning principles were set by Council:
 - a. To maximise member engagement and participation in decision-making.
 - b. To ensure decision-making is informed, transparent and efficient.
 - c. To welcome public engagement.
 - d. To enable members and officers to perform effectively in clearly defined functions and roles.

3. The review was undertaken by the member led 'Re-thinking Governance' working group and a number of changes to the operation of the scrutiny function were proposed and agreed by full Council in March 2022. Those changes came into force on 20 May 2022.
4. Scrutiny is a statutory role fulfilled by councillors who are not members of the Cabinet. The role of the scrutiny committees is to help develop policy, to carry out reviews of council and other local services, and to hold decision makers to account for their actions and decisions.
5. The new scrutiny structure has been designed to drive improvements in the process of scrutiny at the council. One of the principal changes introduced was a restructure of the council's scrutiny committees, moving from three scrutiny committees to five. Further developments include, development of more evidence led work programmes, strengthened mechanisms for Cabinet to provide an Executive Response to scrutiny recommendations and to create a more robust system for being able to track and monitor the recommendations of scrutiny.

The Role of Scrutiny Management Board

6. As part of the new scrutiny committee arrangements, the Scrutiny Management Board was created. The remit of the Board is:
 - a. Undertaking scrutiny in relation to areas which are cross cutting nature e.g. corporate strategy and finance (budget), people and performance and corporate support.
 - b. Matters falling within the remit of one or more scrutiny committees,
 - c. Deciding which of the other scrutiny committees will consider whether a spotlight, task and finish or standing panel review is appropriate
 - d. The Budget and Treasury management
 - e. Approving an annual work programme for itself and the other scrutiny committees
 - f. Oversee communications to members and public in relation to scrutiny matters
 - g. The co-ordination of an annual effectiveness review and oversight of performance of council's companies, e.g. Hoople
7. To assist the development of the role of the Scrutiny Management Board, Scrutiny Management Board Objectives 2022-2023 were agreed by the Scrutiny Management Board on 16 June 2022. These are set out at Appendix 1 to this report for information.

The General Role of Scrutiny Committees

8. The general statutory role of local authority scrutiny committees is provided for by the Local Government Act 2000¹ and set out in the council's Constitution (Herefordshire Council Constitution, Part 2, Article 6²). In summary the general role of scrutiny committees in at the council may be described as to:
 - a. drive improvement in public services,
 - b. provide constructive "critical friend" challenge;- hold the Executive to account,
 - c. be an effective vehicle for non-executive members to contribute to policy development.

¹ The Local Government Act 2000 F19f, Overview and scrutiny committees: functions.

www.legislation.gov.uk/ukpga/2000/22/section/9F

² Part 2, Article 6, Herefordshire Council Constitution, July 2022.

<https://councillors.herefordshire.gov.uk/documents/s50101327/Part%202%20Article%206%20Scrutiny.pdf>

The *Scrutiny Objectives*, is a working document, and as such, may be subject to change as the scrutiny committees develop their working practices. Each of the council's scrutiny committees have also adopted overall strategic role and objectives which should inform and guide how they operate and what they aim to achieve³.

General Powers of Scrutiny Committees

9. Scrutiny committees have the power to request information from council departments and certain other external organisations, from which they should expect a response. Scrutiny committees should be clear why they are requesting information and when they need the response by.
10. Scrutiny committees have statutory powers to make recommendations to the Executive, as appropriate, and the Executive has a statutory duty to respond to scrutiny recommendations. They may also make reports and recommendations to external decision making bodies.
11. In tracking scrutiny recommendations, it is important that it is clear that the recommendations are addressed to the Cabinet, as the Executive decision making body of the council (or, where appropriate, external agency), and to track the decision of the Executive and thereafter the implementation status of the Executive Response and Executive decisions.

Scrutiny at the council

12. The council has five scrutiny committees, established by full Council on 20 May 2022;
 - i). Scrutiny Management Board
 - ii). Environment & Sustainability Scrutiny Committee
 - iii). Connected Communities Scrutiny Committee
 - iv). Children & Young People Scrutiny Committee
 - v). Health, Care & Wellbeing Scrutiny Committee.
13. The general role of the scrutiny committees is set out in Article 6 – Scrutiny of the Herefordshire Council Constitution, in accordance with the Local Government Act 2000. Part 3, Section 4 of the Constitution sets out the specific remits for each of the scrutiny committees. This includes the strategic management and coordination functions of the Scrutiny Management Board, as well as the thematic remits of the four other scrutiny committees. The Scrutiny Management Board is also responsible for the scrutiny of corporate cross cutting functions of the council.
14. Although scrutiny committees do not have any executive decision making powers, they do have statutory powers to make recommendations to the Executive, as appropriate, and the Executive has a statutory duty to respond to scrutiny recommendations. They may also make reports and recommendations to external decision making bodies.

The Scrutiny Management Board Scrutiny Committee

15. The remit of the Scrutiny Management Board is set out in the Council Constitution Part 3, Section 4, (Scrutiny Functions), as outlined above in paragraph 6 of this report).
16. The draft key objectives for 2022-2023 for the scrutiny committees are set out at Appendix 2 of this report.

³ The Connected Communities Scrutiny Committee is to consider agreeing its Role and Objectives at its meeting on 9th September 2022.

17. This document sets out the agreed role and approach of the scrutiny committees, in accordance with the terms of reference for the Scrutiny Committees set out at Part 3, Section 4 of the constitution. This is a working document and may require changes throughout the year.
18. The overall stated aim of the Scrutiny Management Board is to provide effective constructive critical friend challenge to drive improvement in public services and be an effective vehicle for non-executive members to contribute to policy development.
19. The draft key objectives for 2022-2023 set out at Appendix 2 provides some specific objectives and measures for the Board and scrutiny committees to consider.

Community Impact

20. The council is committed to delivering continued improvement, positive change and outcomes in delivering key priorities.
21. In accordance with the principles of the code of corporate governance, the council is committed to promoting a positive working culture that accepts, and encourages constructive challenge, and recognises that a culture and structure for scrutiny are key elements for accountable decision making, policy development, and review.

Environmental Impact

22. The council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.
23. Whilst the scrutiny committees will not deal with specific environmental impacts, consideration should always be given to minimising waste and resource use in line with the council's Environmental Policy. Service areas within the council, where required to do so will be required to undertake specific environmental impact assessment for the service specific proposals being considered. The scrutiny committees, where they deem appropriate to do so, will be able to scrutinise those proposals to ensure that they minimise any adverse environmental impact and actively seek opportunities to improve and enhance environmental performance.

Equality Duty

24. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to:–

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

25. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are

paying 'due regard' in our decision making in the design of policies and in the delivery of services. Whilst this is an update on the work of the scrutiny committees and will in itself have minimal equalities impacts, consideration has been made in the consideration of Executive decisions and the Executive Responses provided by the Cabinet.

Resource Implications

- 26. There are none.

Legal Implications

- 27. Sections 9F – 9FI of the Local Government Act 2000 requires councils that have Executive arrangements (Cabinet and Leader) to have in place a committee that provides an overview and scrutiny function for the council.
- 28. The Local Government Act 2000 also sets out the powers that scrutiny committees have in undertaking their function.
- 29. There are no specific legal implications arising from this report.

Risk management

Risk / opportunity	Mitigation
There is a reputational risk to the council if the scrutiny function does not operate effectively.	The arrangements for the development of the work programme should help mitigate this risk.

Consultees

The Chair of the Scrutiny Management Board.

Appendices

Appendix 1: Scrutiny Management Board Objectives 2022-2023.

Appendix 2: Key objectives for 2022-2023 for the council's Scrutiny Committees..

Appendix 3: The council's Scrutiny Committees Key Objectives 2022-2023 with identified outputs and activities.

Background Papers

None identified.