

14 May 2015

7. CONSTITUTIONAL AND OTHER MATTERS

(a) Realignment of Overview and Scrutiny arrangements

Recommendation

1. **The Head of Legal and Democratic Services recommends that Council considers whether to revise its Overview and Scrutiny arrangements having regard to this report.**

Background

2. It is timely to ensure the scrutiny panels are aligned to the Council's new Operating Model and achieve a more even balance of responsibilities across them to ensure effective scrutiny.
3. In 2014 the Council agreed that the structure of Overview and Scrutiny be reviewed to establish what changes might be required to function effectively within the new Operating Model. Cross-party discussions have taken place involving members of OSPB and Group Leaders to help inform this report.
4. The Alexis Jay and Robert Francis reports have highlighted the risks of weak overview and scrutiny. This is a particular challenge in authorities which are transforming and Scrutiny must be enabled to adapt. Financial pressures and the need to transform services urgently means scrutiny must be faster; increased partnership working means scrutiny will need to work more across organisations. Where service transformation is reliant on the voluntary and community sector, scrutiny could play a role in increasing the input from local communities.
5. There is scope to even out workloads between the Panels and improve their fit within the new Operating Model; proposals to this effect are set out below.

Proposals

❖ **New Children and Families O&S Panel**

The current Children and Young People Scrutiny Panel's remit already addresses some family issues such as early help but it is proposed that this is expanded to a cohesive Children and Families remit. This would support the new operating Model's focus and take a whole family approach to health and wellbeing, including scrutiny of some support

commissioned for adults (i.e. domestic violence, substance misuse, mental health), Public Health relating to families and also Skills (given its links with Learning and Achievement whilst noting the strong connection to the economy).

❖ **New Economy and Environment O&S Panel**

Reducing the wide remit of the current Economy, Environment and Communities Panel would free up more time to address Economy and Infrastructure matters, reflecting its importance for local people and wellbeing. It is therefore proposed to transfer Localism and Communities to a new Corporate and Communities Panel.

❖ **New Corporate and Communities O&S Panel**

The new Commercial and Change Directorate has been created to help realise the Council's ambition to be a commercially-focused, excellent commissioning authority, with an operating model that is fit for the future.

It is proposed to refresh the remit of the current Resources Panel to reflect this new model, and extend it to include Localism and Communities. In line with the operating model, the new Panel would also focus on ensuring the commissioning cycle is robust and effective and there is appropriate commissioning support across the organisation.

❖ **Overview and Scrutiny Performance Board**

Ensuring a balanced workload between Panels and consistency of performance of scrutiny is increasingly important, and the OSPB will need to ensure that these changes are effective. OSPB would continue to resolve any ambiguities between the remits of the Panels.

There is therefore good reason for OSPB to remain the over-arching body to co-ordinate and control the delivery of the scrutiny programme, to ensure that scrutiny is consistent, to ensure high quality performance of scrutiny and to take a strategic role in relation to scrutiny. It has been suggested that OSPB may be able to better address these strategic issues by undertaking less direct scrutiny itself. Good practice highlights the importance of prioritising the scrutiny work programme during periods of resource reductions.

Commissioning and Scrutiny

6. Within an excellent commissioning process quality assurance is increasingly important and it is therefore envisaged that each panel will commission its own sub-groups as and when required. The new Corporate and Communities Panel would be able to deal with core quality assurance issues within a commissioning environment, and each panel address specifics relevant to their remit.

7. Following the cross-party discussions, it is proposed that the following remits should be adopted:

Panel	Business Area
OSP	<ul style="list-style-type: none"> • Scrutiny performance • Coordinate and agree the scrutiny work programme for endorsement by Council • Co-ordinate workload • Call-ins • Allocate Council-wide issues not otherwise falling within the remit of a particular Panel to one of the Panels • Consider reports and recommendations from Panels or Task Groups • Monitor the quality of scrutiny
Adult Care and Well-Being	<ul style="list-style-type: none"> • Health and Well-being • Adult Social Care
Children and Families	<ul style="list-style-type: none"> • Children's Social Care and Families • Public Health relating to Families • Education and Skills
Economy and Environment	<ul style="list-style-type: none"> • Economy • Environment • Highways • Infrastructure
Corporate and Communities	<ul style="list-style-type: none"> • Commissioning, contracts and commerce and ensuring the corporate commissioning cycle works well • Transformation • Finance • Localism and Communities • Organisation and employees
Health O&S Committee	<ul style="list-style-type: none"> • Local NHS bodies and health services

(b) Political balance on Committees

8. The Head of Legal and Democratic Services recommends that Council has regard to the establishment of a new Pensions Committee and confirms the allocation of places upon its political structures in accordance with Appendix 1.

9. The Council is under a legal duty to ensure that the seats on its ordinary committees are allocated between the respective political Groups on the Council in accordance with the principles of political balance as far as is reasonably practicable.

10. These principles (in descending order) are that a majority group has a majority on each of the Council's ordinary committees; subject to that the overall number of seats allocated to each of the Groups reflect political balance; and subject to both of the above that seats on individual committees reflect political balance between the Groups as far as is reasonably practicable.

11. The Council on 12 February 2015 (minute number 1648) established a Pensions Committee following the production of the long-awaited Local Government Pension Scheme (Amendment) (Governance) Regulations.

12. The recommended allocation of seats on the Pensions Committee is set out in Appendix 1 attached. A seat on the Appointments Etc. Panel is currently 'shared' alternately between the 2013 Group and the Independent Community and Health Concern and Residents Group. With the creation of the new Pensions Committee, those two Groups are now entitled to one seat on either the Pensions Committee or the Appointments Etc Panel (i.e. a full seat would now be available to the Group not represented on the Pensions Committee). These proposals would satisfy the overall requirements of political balance. There is no change to allocations other than for those two member bodies. The scrutiny bodies are subject to Council's decision on the previous agenda item.

(c) Chairman and Vice-Chairman of member bodies

13. The Head of Legal and Democratic Services recommends that the constitutional appointments as set out in Appendix 2 be confirmed.

14. The Council on 12 February 2015 agreed that the Chairman and Vice-Chairman of the new Pensions Committee be appointed at this meeting. The nominations for this committee and the remainder of the constitutional appointments are set out in Appendix 2 (to follow).

(d) Constitution – 2015 update

Recommendation

15. The Head of Legal and Democratic Services recommends that (subject to previous decisions on this agenda) the Council approves the updated 2015 constitution and authorises him to keep it updated.

16. Recent amendments to the Council's directorate structure together with some legislative changes have provided the opportunity to review and refresh the Council's

Constitution to incorporate them for a 2015 edition.

17. In addition, Council's attention is drawn to the following proposed updates:

Articles

- Article 12 (Area arrangements) has been updated to reflect the current position with the reduced number of District LSPs (also updated Appendix 10)
- Article 13 (officers) reflects the new directorate structure and appointment of Sean Pearce as the Chief Financial Officer/Section 151 officer.

Appendix 1

- The legal duty to have a Sustainable Community Strategy will be repealed by the Deregulation Act 2015 later this month. Until then it remains a Council-only function (and has remained in the draft) although Council will be able to decide whether to delete or update/replace the existing Strategy
- There has been significant updating of the officer delegation scheme to reflect the new directorate structure. The strategic and operational roles of the previous Director of Resources post have been generally allocated to the Director of COaCH and Chief Financial Officer as appropriate and general procedural roles to the Head of Legal and Democratic Services (Monitoring Officer).

Appendix 2 (Procedural Standing Orders)

- Reflecting new legislation allowing electronic summons of members if they so elect
- Reflecting new legislation requiring the recording of budget votes (as previously decided by Council)
- Reflecting legislative changes permitting public filming or recording of public meetings
- Clarifying that the Chairman and Vice-Chairman of the Council are not prevented from chairing SACRE.

Appendix 3 (Cabinet Procedure Rules)

- Clarifying that CMRs can further delegate any functions delegated to them, and can respond to scrutiny reports
- Clarifying that formal Notices of Decision (as used for CMR decisions) can be circulated for Cabinet decisions to streamline decision-making
- Confirming that CMR decisions can be called-in.

Appendix 7 (Financial Regs)

- Ex gratia payments over £5000 in relation to executive may be approved by CMR or Cabinet

Appendix 8 (Contract Standing Orders)

- Updated to reflect the new Procurement Regulations

Appendix 9 (Officer Employment Rules)

- Reflecting new legislation in relation to disciplinary action against the Head of Paid Service, Chief Financial Officer and Monitoring Officer. The legislation requires the Council to amend its standing orders to reflect the new provisions.
- The previous procedure involving Designated Independent Persons must be replaced. Dismissals of such officers may only be by a decision of Council; where it is a disciplinary dismissal Council must have regard to the advice of a committee including at least two Independent Persons (appointed from amongst the panel retained for the purposes of the Code of Conduct for Members).
- It is proposed that the most suitable structure to undertake such disciplinary hearings and advice to Council would continue to be the Appointments Etc Panel with the addition of 2 Independent Persons as needed for a particular disciplinary case. This is the closest parallel to the Council's current procedures for disciplining Chief Officers and which meets the legislative requirements. The Delegation Scheme at Appendix 1 is also amended to reflect this proposal. Given the nature of the potential proceedings, it is proposed that the Chairman of the Standards and Ethics Committee selects the Independent Persons suitable for appointment to such a special Appointments Etc Panel should it ever be needed.

Appendix 12

- Reflecting updated purdah guidance.

Appendix 13

- Reflecting that Council can decide not to uplift the allowances scheme by indexation in any given year, and updating the office-holders for the additional committees established.
- Clarifying the current process whereby member travel claim forms must be filed within 3 months of the claim rather than 2 as previously.

18. A copy of the updated Constitution – May 2015 edition will be made available in the Members' Lounge, at County Hall Reception and on the Council's website ahead of the meeting.

(e) Council meeting dates for 2016

Recommendation

19. The Head of Legal and Democratic Services recommends that the Council approves its programme of meetings for 2016 as follows:

14 January 2016
11 February 2016
12 May 2016
7 July 2016
15 September 2016
10 November 2016

20. County Council meeting dates are currently scheduled up to November 2015. To enable the 2016 meetings programme to be produced and help members plan their commitments, the Head of Legal and Democratic Services suggests that further meetings of the Council be now scheduled for 2016. In accordance with the usual practice and pattern of meetings, further meetings (Cabinet, Committees and Panels) will be arranged and members notified in due course.

21. Members may wish to note that the remaining Council meetings for 2015 are scheduled for:

9 July 2015
17 September 2015, and
12 November 2015.

22. The date of the LGA conference for 2016 has not yet been set and so the recommendation relating to the date of the July 2016 Council meeting may be altered.

Contact Points

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Background Papers

In the opinion of the proper officer (in this case the Head of Legal and Democratic Services) there are no background papers relating to the subject matter of this item.