

## **Children, Education and Communities Policy and Scrutiny Committee**

25 June 2019

Report of the Assistant Director – Legal & Governance

### **Arrangements for Policy and Scrutiny in York**

#### **Summary**

1. This report highlights the structure for the Council's provision of the scrutiny function and the resources available to support it. It also details the current terms of reference for the individual Policy & Scrutiny Committees.

#### **Background**

2. In 2009 the Council restructured its overview and scrutiny function which led to the formation of a number of overview & scrutiny committees. In May 2015 the Council agreed to change these to Policy and Scrutiny Committees and in May 2019 it agreed to create a further Policy and Scrutiny Committee to look at issues around climate change.

#### **Introduction**

3. This report has been designed to provide practical information and guidance to help Members carry out and assist with Scrutiny activities for City of York Council. It outlines some of the skills required to operate Scrutiny successfully for the benefit of the residents of the city.
4. The purpose of the Scrutiny function is to ensure that Councils provide better public services, and it is enshrined in legislation.
5. The Local Government Act 2000 introduced changes to decision making and accountability within local authorities. This included separating executive and non-executive councillors. Executive councillors propose and implement policies, non-executive councillors review policy and scrutinise decisions.

6. The purpose of scrutiny is to make the decision-making process more transparent, accountable and inclusive in improving services for people by being responsive to their needs. For scrutiny to be effective, the process must be open, fair, constructive and positive.
7. The aim is to challenge so improvements can be made, not apportion blame when things go wrong. The scrutiny process should be inclusive and aim to give all those who wish to contribute, whether as Councillors, Officers, Co-optees, specialists or members of the public giving evidence, to feel valued and to be able to speak freely and openly.
8. As a Councillor you have been elected by your local community because they believe you will represent them in ensuring the Council provides the services they need to the standard they expect. By understanding their needs you can bring a different perspective to the decision-making process to that provided by the Council, Executive and Officers, which can help decisions to be more robust.
9. The Council's policy and scrutiny function currently has the following Policy and Scrutiny Committees in place:
  - Customer and Corporate Services Scrutiny Management Committee
  - Health and Adult Social Care
  - Children, Education and Communities
  - Economy and Place
  - Housing and Community Safety
  - Climate Change

### **Customer and Corporate Services Scrutiny Management Committee**

10. This Committee oversees and co-ordinates the scrutiny function, including:
  - allocating responsibility for issues which fall between more than one Scrutiny Committee;
  - allocating, in consultation with the Chair/Vice-Chair, urgent issues to be considered by an appropriate Committee (including an Ad-Hoc Scrutiny Committee), as may be necessary;

- reviewing progress against the Work Plans of the Scrutiny Committees, as may be necessary and receiving bi-annual updates from Chairs of those Scrutiny Committees, as required;
- receiving periodical progress reports, as appropriate, on particular scrutiny reviews;
- considering and commenting on any final reports arising from completed reviews produced by the Scrutiny Committees, as required;
- provides an annual report to Full Council on the work of the Scrutiny function;
- recommends to the Executive an appropriate budget to support the undertaking of scrutiny reviews as part of the Council's budget setting process, and manages the overall allocation of any such budget;
- periodically reviews the overview and scrutiny procedures to ensure that the function is operating effectively and recommends to Council any appropriate constitutional changes relating to the scrutiny structure or procedural rules;
- considers any decision "called in" for scrutiny in accordance with the Scrutiny Procedure rules.

11. In Addition, CSMC exercises the powers of an Overview & Scrutiny Committee under section 21 of the Local Government Act 2000, by promoting a culture of continuous improvement across all corporate, strategic and business services through developing, challenging and reviewing those services and by monitoring the performance of the following Council service plan areas through regular performance monitoring reports:

- Legal Services
- Information Governance and Complaints
- Electoral Services
- Corporate Finance and Procurement
- Human Resources and Organisational Development
- Customer, Resident and Exchequer Services,
- Digital and ICT

- Civic and Democratic Services

## **Standing Policy and Scrutiny Committees**

12. Each of the standing policy and Scrutiny Committees has its own individual remit as detailed below.

### Health and Adult Social Care Policy and Scrutiny Committee

This Committee is responsible for monitoring the performance of the following service areas through regular performance monitoring reports

- Public Health
- Services for carers
- Adult Safeguarding
- Adult Social Care Provision
- Adult Social Care Community Teams
- Commissioning, Quality Improvement and Partnerships
- Early Intervention and Prevention

In addition, the Health and Adult Social Care Policy and Scrutiny Committee is also responsible for:

- (a) the discharge of the health and scrutiny functions conferred on the Council by the Local Government Act 2000
- (b) undertaking all of the Council's statutory functions in accordance with section 7 of the Health and Social Care Act 2001, NHS Reformed & Health Care Professional Act 2002, and section 244 of the National Health Service Act 2006 and associated regulations, including appointing members, from within the membership of the Committee, to any joint overview and scrutiny committees with other local authorities, as directed under the National Health Service Act 2006.
- (c) reviewing and scrutinising the impact of commissioning service provision and policies of key partners on the health of the City's population
- (d) reviewing arrangements made by the Council and local NHS bodies for public health within the City
- (e) making reports and recommendations to the local NHS body or other

local providers of services and to evaluate and review the effectiveness of its reports and recommendations

- (f) delegating functions of overview and scrutiny of health to another Local Authority Committee
- (g) reporting to the Secretary of State of Health when:
  - i. concerned that consultation on substantial variation or development of service has been inadequate
  - ii. it considers that the proposals are not in the interests of the health service.

### Children, Education and Communities Policy and Scrutiny Committee

13. This Committee is responsible for monitoring the performance of the following service areas through regular performance monitoring reports.
- School effectiveness and achievement, including school attendance and school safeguarding.
  - School Services which includes School place planning and capital maintenance, School transport, admissions, the school governance service and SENDIASS, behaviour and attendance, elective home education and children missing education.
  - Local Area Teams
  - Skills
  - Early years and childcare
  - The virtual school for children in care
  - SEN and disability services
  - Educational Psychology
  - Neighbourhood Working
  - Community Centres
  - Voluntary Sector including CVS
  - Culture
  - Museums
  - Libraries & Archives
  - Sports Facilities
  - York Learning

## Economy and Place Policy and Scrutiny Committee

This committee is responsible for examining long term policy development, strategic objectives and horizon scanning for best and emerging practice across the Economy & Place Directorate and for examining performance, operational outcomes and customer expectations and major project progress across the following Economy& Place service areas:

- Highways
- Transport & Parking
- Planning & Development
- Regeneration & Asset / Property Management
- Economic Growth
- Emergency Planning
- Flood Risk
- Public Realm
- Waste
- Fleet
- Public Protection (Trading Standards, Environmental Health, Food Safety Licensing)
- Client Management: Make it York
- Client Management: YorWaste

## Housing and Community Safety Policy and Scrutiny Committee

The committee is responsible for monitoring the performance of the following service areas through regular performance monitoring reports:

- Housing Revenue Account
- Housing Strategy and Regeneration
- Housing General
- Commissioning and contracts
- Older People's accommodation Programme
- Landlord services
- Homelessness and Housing options, standards and adaptations
- Community Safety

- Early intervention, prevention and community development
- People & Neighbourhoods Strategy & Policy
- Anti Social Behaviour
- Building Services
- Repairs and Maintenance
- Housing Development

### Climate Change Policy and Scrutiny Committee

The remit for this Committee has still to be agreed.

### **Work Planning**

14. Each of the Policy and Scrutiny Committees will produce and maintain an annual work plan. This will appear on the agenda for each meeting and will show the different stages of any ongoing review and the scheduled dates for receiving the following:
  - Performance and Finance Monitoring Reports
  - Reports from Local Strategic Partners
  - Updates from Executive Members
  - Updates on the implementation arising from previous scrutiny reviews.

### **Aims of Scrutiny**

15. Scrutiny should not be a confrontational or divisive process, its aim is not to apportion blame; rather it should enable Members (and officers) to be inquisitive, to increase understanding of community issues, and to seek to understand the causes of poor performance so as to be able to identify ways of improving. It is intended to complement and add value to the work of the Executive which is charged with making day-to-day decisions - *The Centre for Public Scrutiny, Good Scrutiny Guide*.
16. Scrutiny should:
  - i. Help improve the Council's (and other public sector partners) overall performance.

- ii. Help the Council deliver the services local people require in the way they want them within the resources available.
  - iii. Engage service users and the wider community in decision-making and public sector governance.
  - iv. Ensure decision-making is clear, transparent and accountable.
17. A guide to good scrutiny published by the centre for Public Scrutiny sets out four principles for good scrutiny as:
- Providing 'critical friend' challenge to the Executive as well as external organisations and agencies
  - Reflecting the voice and concerns of the public and its communities
  - Taking the lead in the scrutiny process on behalf of the public
  - Making an impact on the delivery of public services

### **How Scrutiny Works**

18. Scrutiny provides a perspective on how well public services are being delivered and how they could be improved from the point of view of those receiving and using those services. These include education, health and social care, housing and regeneration, economic development, public transport, leisure and cultural services and community safety. Scrutiny achieves this by:
- Reviewing and developing policy recommendations for the executive's consideration
  - Providing a means to review the Council's own achievements against its planned targets
  - Setting out to influence Council/Executive decisions and policies
  - Playing a part in the Community leadership role of the Council i.e. by reviewing services provided by other organisations on issues that affect the public and by calling individuals/organisations to account
  - Contributing to the democracy by stimulating public engagement
19. It should be noted that Scrutiny cannot:
- Make policy decisions
  - Review individual planning, licensing, housing or grant decisions
  - Veto decisions of the Council, Executive, Committees or Officers



- Commit the Council to expenditure
20. Scrutiny committees can make recommendations to Executive for any functions which are the Executive's responsibility. They may also examine any issues which are being considered, or have been considered, by the Executive in order to make recommendations on how future developments should progress.

### **Principles of good Scrutiny**

21. Scrutiny Committees provide the Council with its own watchdog. They follow a common sense approach to reviewing decisions and policies and considering whether they are right for the city. They are effectively a quality improvement tool.
22. Effective scrutiny can hold services to account and create opportunities for communities and decision-makers to improve the quality of services by producing solutions to problems together.
23. The principal power of a scrutiny committee is to influence the policies and decisions made by the council and other organisations involved in delivering public services. The scrutiny committee gathers evidence on issues affecting local people and makes recommendations based on its findings.
24. Scrutiny can investigate any issue which affects the local area or the city's inhabitants. However, effective scrutiny work relies on scrutiny's 'soft' influencing power, as it has no formal power to compel anyone to make changes.
25. For this reason it is important to think about how to build a positive working relationship with those who are the subject of scrutiny's recommendations. This ensures a much higher chance of scrutiny's recommendations being implemented.
26. For scrutiny to be effective it needs to be seen as a 'critical friend' and it is important to identify where decisions could be improved and how to prevent mistakes being made or repeated.
27. The focus should be on forward thinking and making positive changes, rather than apportioning blame and focusing on the negatives. This will help foster positive and constructive relationships between Scrutiny, Councillors and Officers.

28. Scrutiny is an essential part of ensuring that the Council remains effective and accountable. It does this by:

- Holding the Executive to Account: This can involve scrutinising decisions of the Executive or an Executive member at a number of different stages of the decision-making process; before decisions are made; before they are implemented and after they are implemented.
- Policy Review and Development: Policy reviews involve the in-depth scrutinizing of existing Council Policies to examine intended policy outcomes and whether these outcomes are being achieved. Policy development involves shaping the formulation of key policies, through examining alternatives set against needs, resources and other issues and making recommendations to the Executive.
- Review of Council Services: This involves Scrutiny reviewing Council services to ensure they are achieving customer satisfaction and value for money together with monitoring Council performance and ensuring standards are met.
- External Scrutiny: This involves scrutinising the work and impact of external agencies on local residents e.g. local NHS trusts and other partners.

29. In summary, Scrutiny should be a Member-led, non party-political review mechanism that works to improve quality of life for residents. It should play a central role in ensuring the Council has open and accountable democratic arrangements in place.

### **Post-Decision Call-Ins**

30. Where councillors (a minimum of three) have concerns or disagree with a decision made by the Executive they can call-in the decision and this will be considered by the Customer and Corporate Services Scrutiny Management Committee. CSMC will receive details of the decision, and hear from the councillors who called it in and from the relevant Executive Member and Director. CSMC will be asked to confirm the decision or make an alternative recommendation for Executive to consider.

## Scrutiny Reviews

31. During the course of the municipal year scrutiny committees will usually undertake scrutiny reviews into issues affecting the city. Suggestions for reviews can come from anywhere; councillors, petitions, request by Executive, partners, senior officers or by direct request from the public or service users. The scrutiny committee usually appoint a Task Group to carry out this work.
32. Task Groups consist of councillors who volunteer to take part and carry out activities over a few months on an informal basis to gather evidence about the particular issue. Evidence can be collected from various sources including Council officers, representatives from other partnership organisations and agencies, voluntary organisations and city stakeholders. Evidence is also gained by research and use of best practice.
33. Once the activities are complete the Task Group draws up a report with recommendations that it would like the Executive to consider implementing. Reviews must have a clear purpose and should help to improve service delivery throughout the Council. For each scrutiny review topic the committee should:
  - Identify a good reason and benefits for doing the review
  - Identify outcomes and constraints
  - Specify how evidence will be collected
  - Agree consultation
  - Evaluate resource requirements
  - Set a timetable for completion
  - Involve stakeholders

## Making Effective Scrutiny Recommendations

34. Recommendations are the way that scrutiny can have an impact. Making good recommendations, and monitoring them, makes it more likely that scrutiny's work will add value.
35. Recommendations need to be **SMART** (Specific, Measurable, Attainable, Realistic and Timely). The report and recommendations will be submitted to Executive for them to consider. The more clear and concise the

recommendations are, and the more robust the evidence to support the recommendations, then the greater chance of a positive response.

36. There is no single “best” approach to making recommendations. What they look like will differ from topic to topic. However, there are some basic principles.
- Recommendations should be evidence-based, specific and realistic enough to be implemented.
  - Recommendations should have a clear focus on outcomes. They should focus on a measurable change in a service, which you can use to establish the return on investment of scrutiny’s input. Members should think about possible measures of success from the very outset.
  - Recommendations should be addressed to a specific person or group. Where responsibility for delivering a recommendation’s outcome is unclear, it makes it less likely that it will be implemented.
  - Recommendations should engage with financial realities – for example, where a recommendation involves additional expenditure, it may increase the force of the recommendation if funding sources can be recognised. However, it should not be required for scrutiny to fully cost all of its recommendations; this is an issue for Executive.
  - Recommendations should be developed in partnership. You should be prepared to speak to the Executive, to senior officers and to partners about recommendations in draft, before they have been agreed. Provided it is accepted that the decision as to what recommendations are submitted remains at the absolute discretion of scrutiny councillors, such discussions can help to ensure that recommendations are more robust and realistic.
37. Open-ended recommendations, where acceptance does not actually commit decision-makers to further action, should be avoided. For example, recommendations beginning, “Executive should consider...” or “Executive should investigate further...”

## **Monitoring**

38. Recommendations should be monitored and evaluated after they have been made, and that scrutiny’s recommendations continue to be “owned” by scrutiny, even though it is for Executive, and/or partners, to deliver.
39. Generally an update on the implementation of recommendations should return to scrutiny after six months. This should not be a re-run of a

scrutiny review but a way of tracking their progress and picking out any that have not been fully implemented.

40. Members should recognise that some recommendations may take many years to bear fruit and that all you can hope for after a year may be some indication that the Council is heading in the right direction.
41. Members should also trust the Executive to implement recommendations and only bring back issues where there is a clear failure to do so.

### **Pre-Decision Scrutiny**

42. Pre-decision is where the Council's scrutiny function looks at a planned decision before it is made by Executive. It is a contrast with post-decision scrutiny through the Council's call-in arrangements, where by the implementation of Executive decisions can be delayed.
43. Looking at decisions before they are made provides an important means to influence those decisions, and to improve them. Scrutiny councillors bring a different perspective to the decision-making process than that provided by Executive Members or officers, which can help decisions to be more robust.
44. Looking at a decision before it is made can often be seen as a more effective means of scrutiny than looking at a decision after it is made (for example, through the call in process), when the opportunity to influence and change that decision is quite limited.
45. This should not be confused with Pre-Decision Call-in which has been removed from the Constitution and the new arrangements are designed to strengthen scrutiny's role in the decision-making process.

### **Role of Scrutiny Councillors**

46. Principal Accountabilities
  - Contribute to good government of the area by monitoring decision-making, standards of service provision and examining policy issues.
  - Monitor the work of the Executive and the work of officers in carrying out Council policy through decision-making.
47. Key Duties
  - Participate constructively in the activities of the committee under the

guidance of the chair.

- Monitor the council's decision-making process.
- Investigate the basis on which major decisions are taken and ensure they are consistent with council policy.
- Monitor the effect of national legislation on the council.
- Hold the Executive and officers to account in respect of their actions in carrying out council policy.
- Monitor the council's performance, jointly, where appropriate, with the Executive Member.
- Investigate the quality of services provided.
- Participate in reviews in carrying out existing policies and the development of new policies by the council through the scrutiny arrangements available and through group consultation mechanisms.
- Contribute to discussions as community representatives, but without a political agenda.
- Participate constructively in any time-limited Task Group reviews agreed by the committee.
- Identify items on the Executive Forward Plan for potential consideration by the Committee
- Treat officers, witnesses and other members with respect and consideration

### **Role of Scrutiny Chairs**

48. Scrutiny Chairs, and in their absence the Vice-Chairs, should:

- Provide leadership and direction
- Work closely with Scrutiny Officers

- Ensure work is Member led on developing a work programme.
- Ensure that Members have the necessary skills.
- Try to engage all Members of the committee.
- Ensure that adequate resources (financial and officer support) are provided.
- Prioritise main work
- Work to minimise common pitfalls that befall overview and scrutiny
- Co-ordinate work with other scrutiny committees and chairs and share learning and experience
- Develop a constructive, 'critical friend' relationship with the Executive, especially with relevant portfolio holders and chief officers.
- Ensure that officers and witnesses are properly introduced at meetings and are always treated with respect and consideration.
- Present the Committee's review final report and recommendations to the Executive.

### **Scrutiny Services Team**

49. Each Scrutiny Committee is served by a dedicated Scrutiny Officer who supports Members in a number of ways:
- Facilitate and support CSMC and the Policy & Scrutiny Committees, and organise events and meetings
  - Support CSMC in reviewing and improving the Scrutiny function
  - Work with individual Committees to develop their annual work plans, and with CSMC to co-ordinate the overall scrutiny function
  - Provide independent and impartial advice to Councillors

- Carry out research and gather information as directed by the Committees
- Provide a link between the Committees, senior officers of the council and external witnesses, inviting them to meetings and supporting them throughout the scrutiny process to ensure an effective exchange of information
- Liaise and consult with residents, partnerships and other external parties on behalf of the Committees
- Draft final reports in close consultation with the Chairs of the Committees
- Forward reports and agenda items to the appropriate Democracy Officer on time so these can be published
- Stay up to date with new developments in Scrutiny legislation and implement changes as necessary.

### **Consultation**

50. This report is for information only – no specific consultation has taken place.

### **Implications and Risk management.**

51. There are no known Legal, HR, Finance, Equalities, Crime & Disorder, Property or other implications associated with the recommendation in this report and there are no known risks associated with the recommendations in this report.

### **Recommendation**

52. Members are asked note the contents of this report and the specific remits of the individual Policy & Scrutiny Committees.

Reason: To inform Members of scrutiny arrangements



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**Wards Affected:**

All

For further information please contact the author of the report

**Background Papers:**

None

**Annexes:**

None

**Abbreviations used in report**

CSMC      Customer and Corporate Services Scrutiny Management  
              Committee