

Report of the Deputy Chief Executive / Director of Customer & Corporate Services

Future Ways of Working in Scrutiny

Introduction

1. This report provides an update on the ongoing work to examine alternative committee structures to support this council in delivering its scrutiny function, and reports back on the consultation with political groups and the Corporate Management Team. The report asks this committee for further direction in examining the way forward.

Background

2. Issues Affecting Current Scrutiny Function
Historically in York, there has been limited policy development scrutiny carried out since the introduction of overview and scrutiny in 2000. A majority of scrutiny review work has been reactive – looking at the way the Council delivers its services and holding to account previous Executive/Executive Member decisions.
3. The current scrutiny committee structure has been in place since 2009 and was designed around cross cutting Local Area Agreement themes. That agreement has long since been replaced by other working arrangements and there have been significant changes to the organisation's working model. This has resulted in a scrutiny function that bears little relation to the way in which the council currently operates or its structure.
4. Furthermore, the differing work priorities for previous Cabinets/ Executives and the scrutiny committees, and those in place for the current Executive, present a continuous challenge in terms of corporate capacity to consistently provide effective support to scrutiny. This has become an increasing challenge as the size of the senior officer corps continues to diminish, and has been compounded as some senior officers are now required to support the work of more than one scrutiny

committee. The knock on effect of this strain on corporate support is that some scrutiny committees struggle to identify suitable topics for review i.e. topics that will result in ambitious recommendations with measurable outcomes.

5. There is also the ongoing issue of scrutiny committee members being expected to participate in Task Group review work regardless of their interest in or knowledge of the subject matter, or their skills in regard to the purpose of the scrutiny work i.e. developing policy or holding to account.
6. Finally there are some very specific issues around the work of the Health Committee. It has completed only 9 scrutiny reviews since 2005, with the majority of its time spent on overview work, bringing together external health colleagues to discuss ongoing health issues within the city and region. How it works and the reports it receives has not changed even though Public Health is now a responsibility of the Council and a Health & Wellbeing Board has been introduced. Whilst the name and focus of all of the scrutiny committees has recently changed to policy and scrutiny, the Health Committee's workplan has remained predominantly focussed on overview.
7. Recent Changes
Following the local election in 2015, in response to an Executive proposal for greater cross-party involvement in the decision making process, a new system for pre-decision scrutiny was introduced and new 'Policy & Scrutiny' committees were created. The purpose of this was to enable future decisions to be taken in a more open and transparent way, and to give policy and scrutiny committees the opportunity to debate and make comments on matters requiring an executive decision, before a final decision is taken.
8. To do this effectively, it was recognised that scrutiny committees would need reports on significant issues much earlier, in advance of the Executive considering them, in order to inform policy development and the contents of Executive reports. This would not preclude them from considering an Executive report in its final (or close to final) form and debating the report recommendations prior to the final decision being made. It was also hoped it would help shift the focus of scrutiny committees from an over emphasis on overview to one of policy development, to address the limited policy development work being undertaken and to bring the committees' work in line with the change to their committee titles.

9. Whilst supporting those changes, this Committee recognised the effect the additional work would have on the scrutiny committee workloads, and agreed that scrutiny committees may need to meet more frequently, and that discipline would be required to make the new system work, with improved Member commitment, and improved corporate engagement and support.
10. In September 2015 this Committee agreed to undertake a review of the scrutiny function based on the following review remit:

‘To review all options for revising the scrutiny committee remits, including the financial implications, in order to:

- Ensure an annual scrutiny workplan that better supports the Council’s priorities
- Improve the Council’s scrutiny function and working arrangements;
- Better balance the committees’ workloads;
- Increase corporate engagement;
- Encourage more policy development work, and;
- Allow for reactive scrutiny’

Progress Update

11. An initial report containing an analysis of a range of possible scrutiny structures was considered by this Committee in March 2016, together with information on national best practice. However at that time the results of the review of the council’s operating model were yet unknown and the Committee were unable to consider the option of aligning scrutiny committee remits to Directorates.
12. In July 2016 when that review had been completed and the new structure of senior management roles agreed, this committee met again to consider all of the possible structure variations (including aligning scrutiny committee remits to directorates), and as a result were able to narrow down its preferred options to the following:
13. Option (iii) - Current structure with no change other than bringing remits in line with Directorates
If this option was to be progressed and the scrutiny Committee remits revised to simply match the new directorates, it would result in the remits being imbalanced. In July 2016 this Committee therefore agreed to consult based on the following:

Scrutiny Committee	Proposed Remit
CSMC	Corporate Services & management of scrutiny function
Standing Committee 1	Children's Services
Standing Committee 2	Adult Services & Public Health
Standing Committee 3	Place Services Travel & Infrastructure: Highways Transport Parking Sustainable Development Planning & Environment Building Control & Property Information Economic Regeneration Infrastructure Programme Management Economy & Place Strategy Client Management: Make it York
Standing Committee 4	Place Services Environment & Assets: Public Realm / Parks & Open Spaces Waste Fleet Environmental Health & Trading Standards Licensing Bereavement Services
Standing Committee 4 Cont/d...	Estate Commercialisation Assets & Property Management Programme Management Client Management: YorWaste

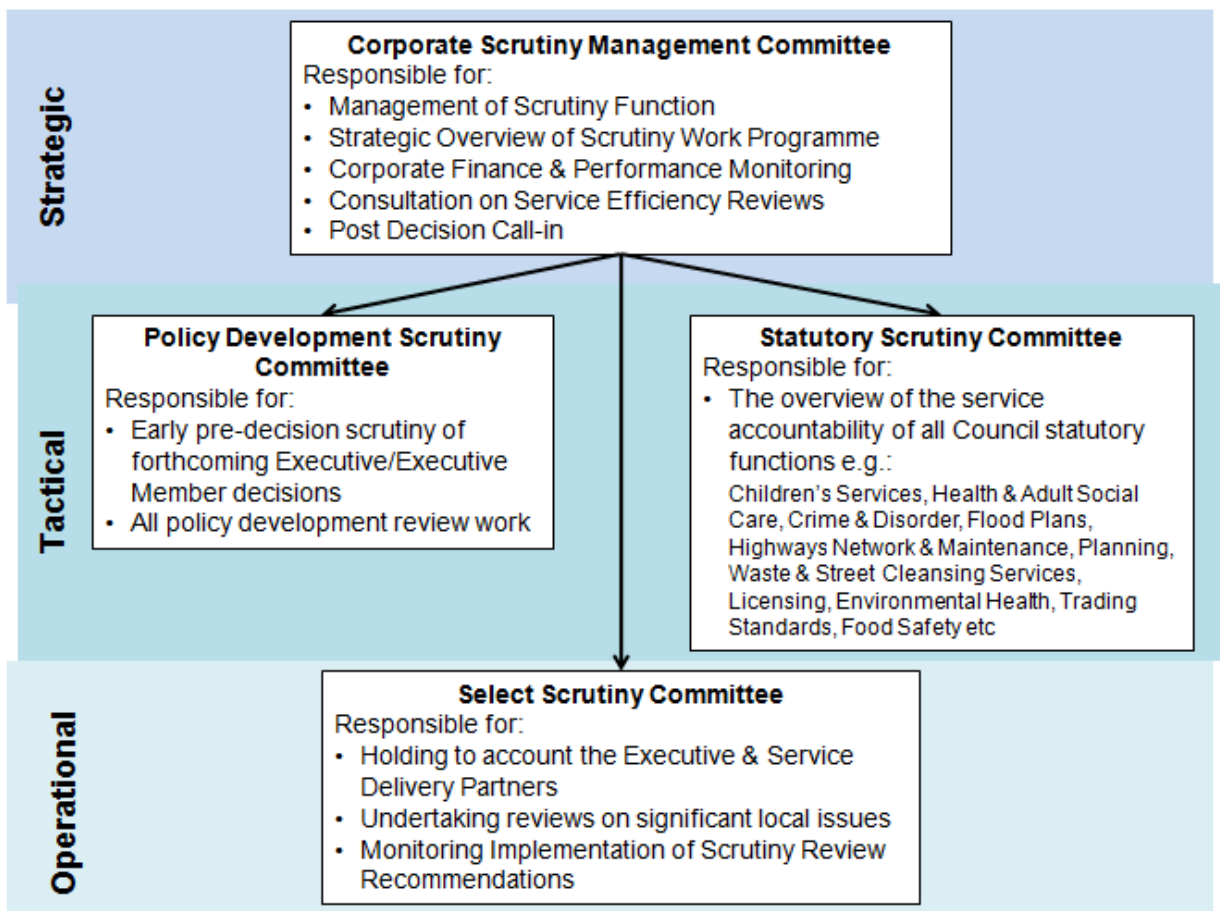
14. This proposed split would result in the same number of Committees as currently in place and would support the delivery of the council's new operating model taking account of a number of emerging national policy changes including new funding arrangements for councils; housing; education and schools; and devolution. However, its similarity to the current arrangements is unlikely to provide the level of cultural shift required to achieve full and proper engagement by Officers and Members across the roles of scrutiny. Further advantages and disadvantages of this option are detailed in Annex A.
15. The workplans for the proposed committees in option (iii) would require input from each Directorate and would need to reflect each Directorate management team's workplan in order to address the issues around corporate capacity and ensure support for the work of scrutiny.

16. Option (iv) – New structure based on scrutiny functional roles

This option would reduce the number of scrutiny committees from 5 to 4 resulting in a small saving of £5,200 i.e. the saving of 1 SRA. In addition there may be some savings through a reduction in the overall number of scrutiny meetings held per year, resulting in a reduction in print costs and Democracy Officer support time. This option would also support the delivery of the council's new operating model as referred to in paragraph 14 above. The scrutiny committees introduced in support of this option would be task orientated, each focussing on a specific scrutiny function, as follows:

- Corporate & Scrutiny Management Committee – Responsible for managing and monitoring the scrutiny function, this committee would also be responsible for having a strategic overview of the scrutiny work programme, corporate finance and performance monitoring, carrying out any post-decision call-ins, and being consulted on service efficiency reviews.
- Policy Development Scrutiny Committee - Responsible for all early pre-decision scrutiny of forthcoming Executive & Executive Member decisions, and any policy development scrutiny reviews e.g. the recent Housing Allocations Scrutiny Review where the review supported an ongoing officer led Allocations Service Development review, and the recent Economic Strategy review in which scrutiny members worked with partners and the business community to help develop a draft strategy for the Executive's consideration.
- Statutory Scrutiny Committee – Responsible for the overview of all the statutory scrutiny functions i.e. Health, Education, Crime & Disorder and Flood Plans, and the Council's statutory functions e.g. Highways Network & Maintenance, Planning etc. This would require a risk based approach to work programming to ensure those areas of greater risk were scrutinised regularly throughout the year e.g. Children's Services, and those with less associated risk scrutinised perhaps over a four year period e.g. Trading Standards.
- Select Scrutiny Committee – Focussing on operational matters, this committee would be responsible for holding the Executive to account and undertaking any reviews on significant local issues e.g. Bootham Hospital, Floods etc. This committee would also receive performance reports from partner organisations where appropriate e.g. York Explore, Make it York etc, and monitor the implementation of all previously approved scrutiny recommendations.

17. The individual committee roles are illustrated in the workflow diagram below:



18. The advantages and disadvantages of this option are detailed in Annex B. As this option proposes a new structure, to support Members in understanding how it might work in practical terms, a sample workplan has been drafted for each of the above Committees – see Annex C. These have been created using the items of business appearing in the current scrutiny committee's 2016/17 workplans and are only indicative of the type of business each committee would undertake.

Consultation

19. The scrutiny team were instructed to consult with political groups and the Corporate Management Team (CMT) on the preferred options above.
20. Between September and December 2016, members of the scrutiny team attended group meetings of the Labour group, the Green group and the Conservative group. Meetings were also held with the Leader, the Deputy Leader, and the views of the independent members were sought. Some Cllrs also sought additional clarification on the preferred options

and expressed their individual views – group preferences are shown below:

Group	Option iii – In line with Directorates	Option iv – In line with scrutiny functional roles
Conservatives	✓	X
Green	X	✓
Labour	X	✓
Liberal Democrats	X	X
Independent		
Independent		

21. The Liberal Democrats confirmed their preferred option was not one of those proposed by this committee. They confirmed their preference would be to have scrutiny committee remits in line with Executive Member portfolios.

22. CMT discussed the options at a number of CMT meetings and the Chair of this Committee also met with CMT to examine which option might best:
 - Improve officer and Member engagement
 - Increase capacity for officers supporting scrutiny
 - Deliver an annual scrutiny workplan that assists the Council in achieving its priorities
 - Increase scrutiny’s involvement in policy development
 - Improve non executive members involvement in the decision making process

23. As a result, CMT confirmed their views on a number of issues:
 - i. The current arrangements for pre-decision scrutiny are not working. There have been many instances where a forthcoming decision has been called-in just prior to the Executive decision date, allowing no time to debate and influence the contents of the report. CMT would welcome a move towards scrutiny’s much earlier involvement in the process and confirmed their view that option (iv) would be most likely to achieve this through the introduction of a Policy Development Committee.

 - ii. The cycle of annual change to the membership of scrutiny committees (and particularly after a local election) has previously been detrimental to the productivity of scrutiny committees as the level of knowledge

and understanding within the committees is diminished. To address this, CMT suggested there should be a limit to the number of changes to the membership each year and new committee members should receive specific induction training and regular peer support to assist them to get up to speed as quickly as possible.

- iii. Added to this, whilst some Members choose to go on a scrutiny committee because of their interest in the subject matter e.g. education or adult social care, others are simply there to represent their group. Some Members skills are better suited to assisting in the development of policy. Others are more interested in holding the Executive to account. CMT agreed that option (iv) would enable scrutiny members to make a more informed choice about which Committee to be on based on either their interests or skills, which in turn was likely to have a positive effective on their level of engagement.
- iv. To address the recognised strain on corporate capacity to support the scrutiny function, CMT proposed there should be much closer collaboration between senior officers and scrutiny members to produce scrutiny workplans, to ensure they focus on the big issues facing the city and the priorities of the Council. To do this effectively CMT agreed CMT / DMT work plans should be made available to inform scrutiny workplan deliberations. Whilst this would ensure scrutiny made a more significant contribution to the council's direction of travel, it would not preclude reactive scrutiny on issues identified by non-executive members.
- v. Careful consideration should be given to nominating scrutiny Chairs as some struggle to commit the necessary time to their role due to other external commitments. Members signing up to the role of chair should receive mandatory training to ensure they have the necessary skills to:
 - Lead on the work of a scrutiny committee
 - Effectively examine and challenge etc
 - Encourage/support other committee members to engage and fully participate
- vi. Whilst it is recognised that scrutiny members have been offered extensive training in the past, take up has not always been high. Scrutiny members may benefit from specific training in how best to challenge and question effectively, particularly as the Council continues to move towards a commissioning role, requiring scrutiny to spend more time holding to account the delivery of services by external bodies.

- vii. Some areas of scrutiny may benefit from co-opting appropriate independent representatives to inform the work of scrutiny committees e.g. where Health issues are being considered.
- viii. Senior officers should be more instrumental in ensuring that scrutiny committees are kept informed of ongoing work in Directorates to ensure:
 - The timeliness of reporting to scrutiny
 - Scrutiny's engagement in policy development
 - Appropriate and time relevant topics are identified for review

24. Specifically in regard to the issues around the current Health Policy Scrutiny Committee, CMT commented:

- There is too much time spent generating overview reports and not enough time spent on identifying appropriate scrutiny review work to undertake.
- The Committee would benefit from pre-meetings to highlight issues and inform questioning.
- Understanding the role of CYC officers at the meeting – whilst they can advise the committee on technical issues they are also responsible for the delivery of some services and therefore should be subject to scrutiny in the same way as health partners.
- The role of the Health Scrutiny Committee and that of the Health & Wellbeing Board (HWB) should remain distinct i.e. Health scrutiny should focus on operational matters and the HWB on strategic aims. They should therefore not be receiving the same reports.
- The Committee should be meeting with their peers to question on service delivery e.g. the Chair of York Hospital Trust, and not the Chief Executive or responsible officer.
- Verbal updates from key partners are not appropriate as they prevent opportunities for informed challenge.

25. Health & Adult Social Care related items of business have been included in the sample workplans shown at Annex C (based on the Health Scrutiny committee workplan for 2016/17), to show how they would be incorporated into the workplans for the proposed scrutiny committees associated with Option (iv). However, the Corporate Director of Health, Housing & Adult Social Care proposed that an alternative approach to annual work planning may be required to ensure that going forward the scrutiny of Health & Adult Social Care is more focussed and fit for purpose.

26. Having agreed that all of the above would establish a positive platform from which both Members and Officers could deliver improved engagement and outcomes in scrutiny, CMT went on to agree that Option (iv) – 1 Parent Committee and 3 standing scrutiny committees with specific functional roles, was the more progressive option and most likely to achieve a positive cultural change across the organisation.
27. Further Proposals for Change
Regardless of which option is progressed, this Committee is asked to consider its management role in progressing positive change in scrutiny, and agree what if any changes may be required e.g. whether in the future it wishes to:
- Invite the Leader and/or Deputy Leader to attend at the beginning of each municipal year (early June), to advise on key priorities for the Council for the year ahead. This would enable CSMC to feed potential areas for scrutiny involvement into scrutiny committee work planning discussions
 - Advise on and sign off each scrutiny committee's annual workplan (late July) – see example workflow at Annex D
 - Receive regular updates from the new scrutiny committees on progress with their workplans through regular meetings with the Chairs of the new scrutiny committees (November & May)
28. Currently each Executive Member reports annually to the appropriate scrutiny committee on their priorities and challenges. However, this Committee is asked to consider whether the current method is delivering on identifying issues of concern appropriate for scrutiny review and/or enabling scrutiny members to hold to account Executive / Executive Member decisions as well as it could.
29. If the current method is still considered fit for purpose and Option (iii) were progressed, a number of Executive Members would have to report to each Scrutiny Committee and some Executive Members may need to report to more than one.
30. If Option (iv) were progressed, a more flexible approach may prove more effective. For example, an invitation to attend scrutiny could be issued to the relevant Executive Member in support of a specific piece of work being undertaken by any of the scrutiny committees, as and when required. In addition, as a result of CSMC's consideration of the quarterly finance and performance monitoring reports, if specific issues are identified that require further examination, CSMC may choose to refer those issues to the next meeting of the Select Committee, to which

the relevant Executive Member(s) could be asked to attend – see example workflow at Annex D.

Implications

31. The implications of each option in regard to their ability to deliver a robust and effective scrutiny function are detailed in Annexes A & B.
32. Finance – In regard to Option (iv) to have CSMC plus three standing Policy & Scrutiny Committees in line with corporate priorities - this option would reduce the number of Scrutiny Chair SRAs by one, leading to an initial annual saving of £5,200.
33. The costs associated with providing specific training to scrutiny chairs and all other non-executive members (see paragraph 23v & 23vi) would be in the region of £7-10k, dependent on the provider and the content of the training package(s) – see budget report elsewhere on this agenda.
34. HR – The implementation of either option would not change the level of officer support required.
35. Legal – Overview and Scrutiny is a required function of local authorities in England and Wales. It was introduced by the Local Government Act 2000 which created separate Executive and Overview and Scrutiny functions within councils.
36. Councils operating executive arrangements are required to create an Overview and Scrutiny Committee which is composed of Councillors who are not on the Executive Committee, or Cabinet, of that council. Overview and Scrutiny Committees are required to meet the rules on proportionality defined in the Local Government & Housing Act 1989 (i.e. the committee must reflect the respective sizes of the political groups on the council).
37. This is a specific duty for the Council put in place measure to enable the scrutiny of Education, Health, Crime & Disorder & Flood Plans, although there is flexibility as to how this duty is met. In relation to Health specifically the Council has a statutory obligation to scrutinise substantial developments of, or variations to, the health service in the council's area as well as NHS Bodies annual statement to the Care Quality Commission on how they have complied with the NHS core standards.
38. There are no other known implications associated with the implementation of either preferred option detailed in this report.

Risk Management

39. An effective and robust scrutiny function can go beyond the traditional adversarial and organisational boundaries and be a genuinely creative force in generating new policy and ways of working. It also enables the public to engage in the difficult choices a council has to make and can play a significant role in ensuring implementation is done correctly. Without a robust function fit for purpose, this Council is at risk of not being able to demonstrate how non Executive members engage with the big issues facing the city and those shared across the country, or demonstrate how it is equipped to tackle and challenge those issues in an open, inclusive and democratic way.

Recommendations

40. In light of the information contained within this report and the feedback gathered from the groups and the Corporate Management Team, Corporate & Scrutiny Management Committee are recommended to:
- Note the contents of this report
 - Recommend Option (iv) to Council
 - Identify any necessary changes to its management role to ensure it remains fit for purpose in light of the proposed changes to the scrutiny function
 - Receive a further report at its next meeting proposing terms of reference for the new scrutiny committees

Reason: To fulfil the scrutiny management role of this Committee, and enable any changes required to the scrutiny function to be presented to Full Council in March 2017 for approval.

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Report Approved



Date 3 February 2017

Wards Affected:

All



For further information please contact the author of the report

Background Papers: N/A

Annexes:

Annex A – Option (iii) Advantages & Disadvantages

Annex B – Option (iv) Advantages & Disadvantages

Annex C – Sample Workplans for Committees proposed in Option (iv)

Annex D – Sample Workflow for Finance & Performance Monitoring
proposed for Option (iv)

Abbreviations:

CfPS – Centre for Public Scrutiny

CMT – Corporate Management Team

DMT – Directorate Management Team

SRA – Special Responsibility Allowance