
Overview and Scrutiny Committee – 7th December, 2023

Report of the Lead for Law and Governance (Monitoring Officer)

Overview and Scrutiny Arrangements 2023/24

Purpose

1. To consider the ongoing development of the Council's Overview and Scrutiny arrangements for 2023/24.

Recommendations

2. That the Committee receive a briefing on the Local Government Association Corporate Peer Review prior to its consideration by the Cabinet on 13th December, 2023.
3. That the publication of the Government's Scrutiny Protocol for English Institutions with Devolved Powers, as set out in the Appendix, be noted.
4. That the Committee make a recommendation on the Council's approach to determining scrutiny 'call-ins' based on the options set out in paragraph 13 below.
5. That revised versions of Article 6 of the Constitution and the associated Overview and Scrutiny Procedure Rules be submitted to the Council as part of the Annual Review of the Constitution.

Background

6. On 12th June, 2023, a report was submitted on the Council's [Overview and Scrutiny Arrangements for 2023/24](#). The report set out updates to Article 6 of the Constitution together with the associated Overview and Scrutiny Procedure Rules. The Committee resolved that the proposals be deferred pending a further report.

7. A further report was considered by this Committee on [19th October, 2023](#). The Committee deferred consideration of the options for determining scrutiny call ins and decided that this matter be considered further following the publication of the Local Government Association (LGA) Corporate Peer Review Report.

Local Government Association Corporate Peer Review

8. The Council took part in a Corporate Peer Challenge, organised by the LGA, from 19th to 22nd September, 2023. A report on feedback from the Peer Review will be submitted to the Cabinet meeting on 13th December, 2023. The Overview and Scrutiny Committee will be provided with a briefing at this meeting in advance of the report being considered by the Cabinet.

Scrutiny Protocol for English Institutions with Devolved Powers

9. On 22nd November, 2023, the Government published a [Scrutiny Protocol](#) for English institutions with devolved powers. The protocol is attached as an Appendix. The Scrutiny Protocol is 'non-statutory guidance' and should therefore be considered to set best practice in scrutiny.
10. This Scrutiny Protocol is a key part of making sure that overview and scrutiny arrangements are of the highest possible standards for holding authorities to account for delivery as well as for playing a critical role in policy and strategy development.
11. The protocol identifies key principles of good scrutiny that need to be reflected in the ongoing development of the Council's Overview and Scrutiny arrangements. This needs to be viewed in the context of other significant corporate developments, including feedback from the LGA Peer review.

Scrutiny 'Call In'

12. This Committee has previously discussed the Council's approach to determining scrutiny 'call-ins'. [Guidance](#) issued by the Centre for Governance and Scrutiny was reported at the previous meeting. The Government's Scrutiny Protocol also refers to the need for authorities to make provision for scrutiny call-in.

13. The process for dealing with scrutiny 'call ins' remains a matter of local choice. The Committee is therefore invited to reconsider the options below, as discussed at the last meeting, and make a recommendation to the Council:

Option 1 – All scrutiny 'call ins' to be referred to and determined by the Overview and Scrutiny Committee

This option is in line with the guidance from the Centre for Governance and Scrutiny. Members of the relevant Select Committee would retain the ability to 'call in' a decision, however, the 'call in' would then be determined by the Overview and Scrutiny Committee rather than the individual Select Committee concerned.

The Overview and Scrutiny Committee would have the ability to invite any Members, Officers or subject matter experts to attend and make representations on the matter under consideration.

Option 2 – Scrutiny 'call ins' to be referred to and determined by the appropriate Select Committee.

This option would effectively maintain the status quo that has operated in Dudley previously. However, it would continue the practice that Members who 'call in' the decision would then participate in the review of the decision.

Option 3 – Scrutiny 'call ins' to be referred to and determined by either the Overview and Scrutiny Committee or the relevant Select Committee.

This option would allow for flexibility. It would require the Members who wish to 'call in' a decision to inform the Monitoring Officer at the time of 'call in', whether they consider that the matter should be determined by the Overview and Scrutiny Committee (eg: in the case of an item with significant corporate implications) or the relevant Select Committee (eg: in the case of a decision affecting a specific service area).

Finance

14. The Council's scrutiny arrangements for 2023/24 cause an initial pressure on the budget for Members' Allowances and require additional unbudgeted resource for officer support. The Director of Finance and Legal is seeking, in year, to contain this pressure from

reserves. However, arrangements for future years will need to be considered as part of the budget process for 2024/25 onwards.

Law

15. Scrutiny and Select Committees are established in accordance with the provisions of the Local Government Act 1972 and the requirements of the Council's Constitution, which was adopted under the Local Government Act 2000, subsequent legislation and associated Regulations and Guidance. The Council's scrutiny arrangements are set out in Article 6 of the Constitution (Overview and Scrutiny) and the associated Procedure Rules are contained within Part 4 of the Constitution.

Risk Management

16. Reports to this Committee and individual Select Committees will include a paragraph to ensure proper consideration of any ongoing material risks as part of the Council's Risk Management Framework.

Equality Impact

17. Provision exists within the Council's governance arrangements for overview and scrutiny to be undertaken of the Council's policies on equality, diversity and inclusion.

Human Resources/Organisational Development

18. The Overview and Scrutiny Committee and Select Committees are primarily administered by the Democratic Services Team with support from Directorates and other Officers as required. Any proposals to develop the Council's overview and scrutiny functions must be set in the context of the resources available and the organisational capacity to support scrutiny work.

Commercial/Procurement

19. Individual items may have commercial or procurement implications, which will be reported to this Committee or the relevant Select Committees.

Environment/Climate Change

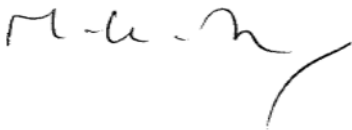
20. Within our governance arrangements, the Council requires that all reports should include an assessment of the impact on the environment. The Council has declared a Climate Emergency and

reports on individual proposals should address the impact on the Council's work to address Climate Change and achieve the Net Zero target. In addition, individual reports should consider how the proposals support the [United Nations sustainable development goals](#)

21. To reinforce the Council's commitment, the Leader has established a specific Cabinet portfolio for Climate Change. The Council has also established the Climate Change Select Committee for the 2023/24 municipal year.

Council Priorities and Projects

22. Overview and Scrutiny is a key element of the Council's governance arrangements to underpin the delivery of key Council priorities including the Borough Vision, Council Plan and Future Council Programme. Reports to meetings will include details of how proposals impact on key Council priorities.



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Appendix

[Scrutiny Protocol for English Institutions with Devolved Powers](#)

List of Background Documents

[Reports to the Annual Meeting of the Council – 18th May, 2023](#)
[Report and Minutes of the Overview and Scrutiny Committee – 12th June, 2023](#)
[Report and Minutes of the Overview and Scrutiny Committee – 19th October, 2023](#)
[Guidance from the Centre for Governance and Scrutiny](#)
Article 6 of the [Constitution](#) and Overview and Scrutiny Procedure Rules