

CABINET

19 JANUARY 2011

PRINCIPAL SCRUTINY COMMITTEE

24 JANUARY 2011

REVIEW OF COUNCIL OVERVIEW AND SCRUTINY ARRANGEMENTS

REPORT OF CHIEF EXECUTIVE AND CORPORATE DIRECTOR (GOVERNANCE)

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RECENT REFERENCES:

[CAB2067](#) Leadership Arrangements – Outcome of Consultation, 3 November 2010

EXECUTIVE SUMMARY:

This report reviews the Council's current Overview and Scrutiny arrangements. It sets out proposals for a new approach that will bring improvements to ensure that scrutiny maintains a focus on where it can have the greatest impact on ensuring good outcomes are secured for residents and that the Council is well governed.

It was included in the Forward Plan as being submitted to Cabinet in February 2011. However, it has been possible to bring the report forward for consideration at this meeting to enable all members to have an earlier input into the proposals.

## RECOMMENDATIONS

### TO CABINET:

1. That Cabinet considers the proposed new approach for the Council's Overview and Scrutiny arrangements as set out in the report.
2. That a further report be prepared to take account of the recommendations from Cabinet and Principal Scrutiny Committee with relevant changes to the Council's Constitution for consideration by Council in April 2011.

### TO PRINCIPAL SCRUTINY COMMITTEE:

That Principal Scrutiny Committee considers the proposed way forward for the Council's scrutiny arrangements presented in the report and considers whether to make any comments prior to consideration by Council.

## CABINET

19 JANUARY 2011

## PRINCIPAL SCRUTINY COMMITTEE

24 JANUARY 2011

## REVIEW OF COUNCIL OVERVIEW AND SCRUTINY ARRANGEMENTS

### REPORT OF CHIEF EXECUTIVE AND CORPORATE DIRECTOR (GOVERNANCE)

#### 1. Introduction

- 1.1 The report reviews the current Overview and Scrutiny arrangements and proposes a new approach for the Council.
- 1.2 The current arrangements are detailed in Appendix 1 of the report and include brief details of the advantages and disadvantages of this arrangement.
- 1.3 Attached as Appendix 2 to the report is a proposed new approach which builds on our experience of recent years to replace the current four scrutiny panels and Principal Scrutiny Committee (PSC) with a single Overview and Scrutiny Committee which will focus on monitoring performance of services, and considering major strategic projects and programmes. It also transfers the current audit responsibilities of the PSC to a new Audit Committee.
- 1.4 The proposed new arrangements also include Informal Scrutiny Groups which will act as a forum for preparatory work on scrutiny of the Council's activities, reporting to the Overview and Scrutiny Committee. Informal Policy Panels - reporting to and led by a Cabinet Member - would provide opportunities to inform policy development. Alternatively, Informal Scrutiny Groups could also assist with policy development in suitable circumstances.

#### 2. Background

- 2.1 The Local Government Act 2000 required all councils in England and Wales to introduce new political structures which provide a clear role for the Council, the Executive and non-executive Councillors. This meant that Winchester City Council established a Cabinet system as the Executive to manage the Council's business. Recently, Council on 3 November 2010 ([CAB 2067](#) refers) adopted the strengthened Leader with Cabinet option rather than the Elected Mayor with Cabinet model.
- 2.2 Overview and Scrutiny was established to act as a check on executive power, by holding decision makers to account and also to contribute to policy development. As Overview and Scrutiny has no decision making powers, the contribution to improved policy has to be achieved through trying to influence decision makers through inquiry, evidence and debate.

2.3 Winchester's scrutiny process is based on five Overview and Scrutiny Committees (Principal Scrutiny Committee with four Scrutiny Panels). The Principal Scrutiny Committee guides the overall scrutiny process and has developed a role in considering cross-cutting matters and some of the more high profile topics which Cabinet is asked to decide upon. It has the power to 'call in' any issue put to Cabinet involving unplanned expenditure over £50,000 and challenge any decision taken by the Leader or a Portfolio Holder and can invite both the Portfolio Holder and relevant officers to attend a meeting to explain the decision. The scrutiny panels do not have the power to 'call in' decisions unless the challenge is based upon advice from the statutory officers that a Cabinet proposal is outside the budget or policy framework and authorisation from Council is not being sought. Five or more members from either Principal Scrutiny Committee or the relevant Scrutiny Panel can also require the draft portfolio holder decision notices to be referred to Cabinet for determination. The Principal Scrutiny Committee also acts as the Council's audit committee.

2.4 The four scrutiny panels that have been set up to assist with the Council's scrutiny function are:

- Social Issues Scrutiny Panel,
- Local Economy Scrutiny Panel,
- Environment Scrutiny Panel,
- Resources Scrutiny Panel

### 3. Role of Overview and Scrutiny

3.1 The establishment of an Overview and Scrutiny function is to hold the Cabinet to account for its decisions and to contribute to evidence-based policy making by the Council.

3.2 Fundamentally, the roles that are required to be fulfilled by the Overview and Scrutiny function are for Members to be able to:

- Scrutinise progress of key corporate projects,
- Input into the annual budget process,
- Scrutinise whether the outcomes included in the Sustainable Community Strategy have been delivered by the Council, partners and partnerships,
- Consider Cabinet proposals under the Council's call-in processes or at the request of Cabinet,
- Assist with the scrutiny of Council service performance issues,
- Provide Overview and Scrutiny of the Council's governance (i.e. audit and risk),
- Provide assistance with policy development,
- Assist with in-depth review of issues of concern,

- Hold Cabinet and Portfolio Holders/senior officers to account,
  - Make recommendations to Cabinet or portfolio holders arising from the work of Informal Scrutiny Groups,
  - Raise issues of concern to their local Ward or to the people who live or work in that Ward, with Principal Scrutiny Committee or the relevant Scrutiny Panel under the 'Councillor Call for Action' provided within the Local Government and Public Health Act 2007 (LGPIH Act),
  - To act as the Crime and Disorder Committee for the purposes of Section 19 of the Police and Justice Act 2006 and associated regulations.
- 3.3 Generally, the Principal Scrutiny Committee meets on a monthly basis with the four scrutiny panels meeting four times in a municipal year.
4. Weaknesses of Current Arrangements
- 4.1 At a time when the Council faces significant budget pressures, there are insufficient resources to support both the formal committee requirements of scrutiny and the Informal Scrutiny Groups (ISG's), which undertake preparatory work to enable specific issues to be examined in depth. It is also unclear whether the current system for identifying issues for review, either by an ISG or formally by a panel, is ensuring that the topics which are chosen will make the most impact. Informal Scrutiny Groups or ISG's are scrutiny led and set up to review a particular issue. This group usually consists of members of the relevant Scrutiny Panel or Committee with officer representation. Cabinet Members are not able to sit on an ISG, but may be called to give evidence. For resource reasons the Panels have been limited to two ISGs per year, normally running consecutively.
- 4.2 By having four separate Scrutiny Panels, an artificial distinction is created between the outcomes which the Panels cover. This means that issues are generally considered in isolation and without reference to other services or partners which may also have an impact. It can also lead to uncertainty within Panels over their remit, and tends to give the panels a broad and often unfocused agenda. This suggests time devoted to working in these Panels is not always spent as effectively as it might be; not through the contributions Members make but because agendas and remits are not sufficiently focused.
- 4.3 Although the quarterly performance monitoring reports received by the Panels are now based on exceptions, the extra capacity generated by freeing up agendas has not yet been fully taken advantage of.
- 4.4 Responsibility for scrutinising Housing both generally and in relation to the activities of the Housing Revenue Account falls within the remit of the Social Issues Scrutiny Panel, which is already over-burdened when compared with the responsibilities of the other three Scrutiny Panels.

- 4.5 Nor has the policy development role of Overview and Scrutiny been fully developed. ISGs can and do contribute to shaping and reviewing policy, but largely on an ad-hoc basis. Again, the Council may be missing an opportunity for making effective use of meeting time, and changed scrutiny arrangements could create opportunities to better support this work.
- 4.6 The Principal Scrutiny Committee acts as the Council's audit committee and considers all reports on maladministration issues. This can lead to a number of audit items appearing on agendas for the Principal Scrutiny Committee, which significantly increases the Committee's workload.
5. Proposed new approach for Overview and Scrutiny
- a) Overview and Scrutiny Committee
- 5.1 Included as Appendix 2 to this report is the proposed new approach for Overview and Scrutiny arrangements for the Council.
- 5.2 This proposal supports the setting up of a single Overview and Scrutiny Committee which would take on the responsibility of the current Principal Scrutiny Committee (other than the Audit Committee role) and the four Scrutiny Panels.
- 5.3 The advantages of having a single Overview and Scrutiny Committee are:
- One main body with responsibility for the scrutiny function' allowing for a coherent assessment of the Council's performance across all the Council does. This will be important as the Council seeks increased flexibility in resource use and in balancing priorities,
  - Portfolio Holders and senior managers are held to account by the same Committee,
  - Responsibility for 'call in' of decisions sits with one body,
  - Scrutiny of significant corporate projects is undertaken in one place, allowing Members to take a better overview of the Council's performance in key areas,
  - Single committee for scrutiny of all four Change Plans; again allowing a better overview of progress being made across the board,
  - to contribute to evidence-based policy making,
  - Members able to develop as 'champions' on specialist subjects.
- 5.4 It is anticipated that the Overview and Scrutiny Committee would meet eight times a year which is the same number of meetings as Principal Scrutiny Committee. Four of the meetings would be dedicated to scrutinising the progress made against the Change Plans (quarterly performance monitoring based on exceptions) with the remaining scheduled meetings themed on significant current issues. Call in issues would be dealt with at any of the meetings as would other specific individual items of business.

b) Informal Scrutiny Groups

- 5.5 Informal Scrutiny Groups already undertake a range of useful, focused enquiries. It is suggested the Council makes more of such bodies, which will sit under the Overview and Scrutiny Committee and support its work. A programme of work for these Informal Scrutiny Groups could be agreed by OSC at the beginning of each year, based on priorities identified in the Council's Change Plans. The timetable of meetings should allow other matters to be identified and considered within the year as issues arose.
- 5.6 The Council would thus have the ability to explore, through task-and-finish Informal Scrutiny Groups, weaknesses in performance, consider quickly urgent matters of concern to Members or undertake more forward looking examinations of policy direction or the work of partnerships. It is suggested up to 16 Informal Scrutiny Groups could be established and resourced each year, each one with a clear remit and time limited

c) Audit Committee

- 5.7 As highlighted under the weaknesses of the current arrangements, the new approach presented proposes a separate Audit Committee that will relieve the Overview and Scrutiny Committee of direct responsibility for Governance, Risk, Internal Audit, Statement of Accounts and Treasury Management.
- 5.8 The Audit Committee could subsume the current Statement of Accounts Committee and would meet three or four times a year (June, September, December and possibly March). It would also fulfil the obligation for the Council to have a formal audit body.
- 5.9 Consideration also needs to be given to the legal status of an Audit Committee and the consequences that this has upon the membership and appointment of chairman. If the Committee does not have the Statement of Accounts role, it could remain as an overview and scrutiny committee which is formed on the political balance rules but cannot have a Cabinet member sitting on it. Consideration would also have to be given to whether the principle on chairmanship already used for Principal Scrutiny Committee should apply i.e. the chairman should come from a different group to that of the Leader of the Council.
- 5.10 If the Statement of Accounts functions are subsumed in the Audit Committee role, then the body would have to be constituted as a traditional local government committee under the Local Government Act 1972. This means that the political balance rules apply but the Act does not contain any reference as to any restrictions on Cabinet membership. However, CIPFA guidance suggests that an Audit Committee should ideally be seen as separate from both Cabinet and scrutiny roles. A 1972 Act committee could have local requirements in the Procedure Rules either excluding or limiting the number of Cabinet Members. It could also place limitations on the appointment of Chairman.

- 5.11 In Winchester the Leader has been the Chairman of the Statement of Accounts Committee with the challenge role coming from the membership of the Committee. This has the advantage of linking the administration to the proposal of the Accounts resulting from their decisions. However, an alternative would be for the Leader to present the accounts to an Audit Committee and to be held to account while not being a member of that body.
- 5.12 On balance, including the Statement of Accounts functions in an Audit Committee with a wider remit would streamline the business by having continuity of involvement of Members in the related issues. Local Procedure Rules could exclude Cabinet Members from membership and provide that the chairman should come from a group different to that of the Leader. The Leader and other portfolio holders would need to attend on occasions to be held to account or to present items.
- 5.13 It is suggested that the officer group supporting the Audit Committee would be the existing Corporate Governance Group which meets regularly throughout the year.

d) Cabinet (Housing) Committee

- 5.14 Furthermore, the new approach supports the setting up of a Cabinet (Housing) Committee, with responsibility for undertaking some of the work on Housing Revenue Account (HRA) policy and performance that is currently carried out by the Social Issues Scrutiny Panel. That Panel is overloaded and not easily able to give full consideration to housing matters, or engage with TACT as they would want to. A separate Committee would, moreover, allow the Council to involve Members and Tenants better in the changes happening to the policy framework for housing over the coming years. A separate Committee would not preclude the Overview and Scrutiny Committee getting involved in housing matters or setting up Informal Scrutiny Groups on particular topics where separate scrutiny is seen to add value. TACT representatives could be invited to address the Overview and Scrutiny Committee on Housing related issues, in the same way as they currently address Cabinet.
- 5.15 The idea of setting up a Cabinet (Housing) Committee is similar in style to that of the existing Cabinet (LDF) Committee and Cabinet (Traffic and Parking) Committee. Part of the new committee's responsibilities would be to take decisions relating to housing, other than major policy decisions which would still be made by Cabinet. Legally only Cabinet members would be able to make any decisions. However, like the LDF and Traffic and Parking Committees, there can be a standing list of invitees from other parties and TACT, who could contribute to discussion. For legal reasons there could not be co-option of TACT members or appointment of non-Cabinet councillors on a decision-making body under the current legislation. The reason for this approach is to explore the possibilities that could lead to a Housing Board type of arrangement, after future changes in legislation in the Localism Bill



and on Housing Finance have been passed. The Cabinet (Housing) Committee could meet say, 5 times a year.

e) Informal Policy Panels

5.16 The current Informal Member/Officer Working Groups (IMOWG's) are groups set up by Cabinet (as opposed to a Scrutiny Panel or Committee) and led by the relevant Portfolio Holder to undertake preliminary work on policy development, usually on a task-and-finish basis. The Council should retain and build on this model, albeit perhaps simplifying the name to 'Informal Policy Panels' to offer a vehicle for such work. Further responsibilities could include:

- Supporting the corporate planning cycle by having an Informal Budget Panel,
- Inputting into service reviews (or alternative),
- Providing support to policy development by having Informal Policy Development Panels that could deal with policy issues referred to them by Cabinet. This would be a series of task-and-finish groups, which is appointed with each different issue referred to them,
- All Informal Policy Panels would include Non-Executive Members and have officer representatives.

f) Pattern of Meetings

5.17 With the changes proposed under the new approach for Overview and Scrutiny, the role for those Members who currently serve on scrutiny panels would obviously change. This may cause concern about whether those Members would continue to have sufficient involvement and responsibility under the new approach. It is expected that Members serving on the current scrutiny panels would take up places on the Informal Scrutiny Groups, Informal Policy Panels or the Audit Committee.

5.18 The following table gives details of the numbers of meetings anticipated should the new approach to scrutiny arrangements begin at the start of the 2011/12 Municipal Year. These figures are seen alongside the numbers of meetings held in 2009/10 and expected in 2010/11. Having regard to the current staffing levels in the Democratic Services Team and changes to scrutiny support made in the current organisational changes, it is important that the total number of meetings generated by any new approach to Scrutiny does not exceed the 2010/11 figure. Ideally the number of meetings should reduce to allow for better support to the meetings which are held.

Current Overview and Scrutiny or Other Decision-Making Arrangements	Numbers of meetings		Proposed Overview and Scrutiny or Other Decision-Making Arrangements	Number of meetings
	2009/10	2010/11		2011/12
Principal Scrutiny Committee	9	9	Overview and Scrutiny Committee	8
Social Issues Scrutiny Panel	4	4	Audit Committee	say 4
Local Economy Scrutiny Panel	4	4	Cabinet (Housing) Committee	5
Resources Scrutiny Panel	4	4	ISG's	say 16
Environment Scrutiny Panel	4	4		
ISG's	19	10 est.		
Statement of Accounts Committee	1	2		
<b>TOTAL</b>	<b>45</b>	<b>37 est.</b>		<b>33 est.</b>

**SUSTAINABLE COMMUNITY STRATEGY AND CORPORATE BUSINESS PLAN (RELEVANCE TO):**

6. The Overview and Scrutiny function forms an integral part for the Council in ensuring that it is effective and efficient in providing services.

7. **RESOURCE IMPLICATIONS:**

7.1 There are no direct additional resource implications included within this report as significant changes are not proposed. It is anticipated that the numbers of meetings under the proposed new approach would be slightly reduced than under the current arrangements. However, savings could be generated by no longer having to pay Special Responsibility Allowances to the four scrutiny panel chairmen. The Independent Panel would need to review allowances for the chairmen of the Overview and Scrutiny and Audit Committees.

8. **RISK MANAGEMENT ISSUES**

8.1 There are no direct risk implications for this report, provided any changes to the Overview and Scrutiny arrangements are accurately reflected in the Council's Constitution.

BACKGROUND DOCUMENTS:

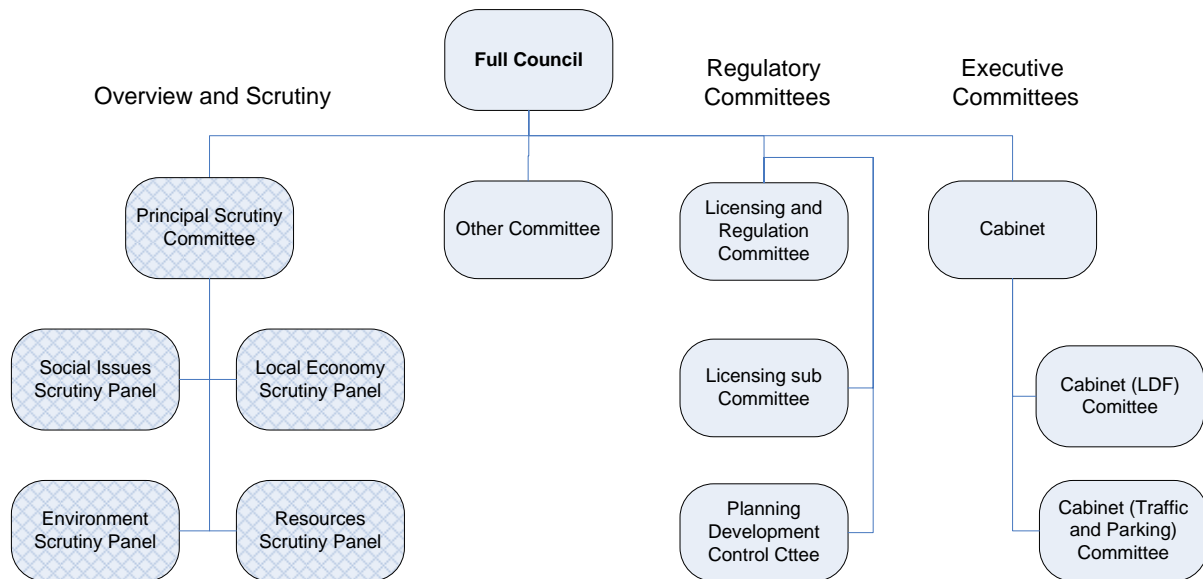
Files held in the Democratic Services Division.

APPENDICES:

Appendix 1 Existing arrangements for Overview and Scrutiny

Appendix 2 Proposed new approach for Overview and Scrutiny.

## Current arrangements for Overview and Scrutiny



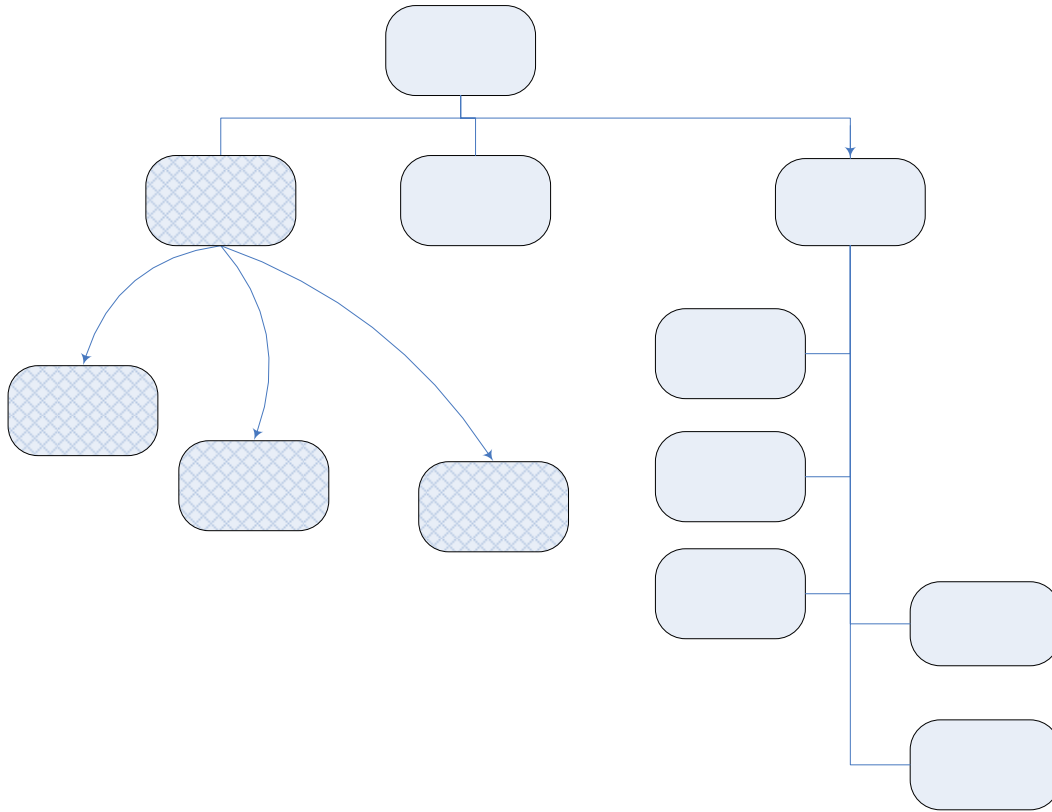
### Advantages

- The arrangements allow for the involvement of a wide range of Members,
- The current panels provide opportunity for in-depth consideration of each of the three Community Strategy outcomes and Change Plans.

### Disadvantages

- The agenda for Principal Scrutiny Committee is dominated by audit requirements
- The Social Issues Scrutiny Panel is over burdened
- Resources Scrutiny Panel currently receives a high proportion of performance information due to the number of services which relate to it which does not support the Panel in scrutinising wider issues of importance.
- Opportunities for policy development have been limited to date

**Proposed new approach for Overview and Scrutiny**



# Overview and Scrutiny

Overview and  
Scrutiny  
Committee