Subject: REVIEW OF SCRUTINY ARRANGEMENTS

1. Purpose of Report

1.1 To provide Cabinet with an overview of the key findings from the healthcheck of Overview and Scrutiny arrangements at Worcester City Council. Cabinet are asked to note feedback from the Scrutiny, Audit and Performance Management and Budget Scrutiny Committees and to consider and discuss the role of Scrutiny and proposed actions for future improvements as set out in the action plan attached at Appendix 1.

2. Background

2.1 As part of the review of the Constitution undertaken in 2001/12, the Council’s Constitution Working Group agreed that there should be an external scrutiny health check on the current scrutiny arrangements in place. The Centre for Public Scrutiny (CFPS) was commissioned to conduct this review.

2.2 The review’s purpose was to consider current arrangements and make recommendations, based on best practice and the extensive knowledge that CFPS have in this field, to ensure that Scrutiny adds value.

2.3 The objectives for the ‘healthcheck’ were to:

- comment on the current arrangements for overview and scrutiny
- look at the overlap between the Performance Management Budget Scrutiny (PMBS) Committee and the Scrutiny Committee
- review the arrangements for ‘call in’ of executive decisions
- define the depth and breadth of overview and scrutiny and its potential to add value to the cabinet and the council, and
- examine the value in having the Audit Committee as a committee of the council rather than as a scrutiny committee.

2.4 The healthcheck involved:

- desk-based research of a range of documents including:
  - the council constitution
  - PMBS agendas and minutes
  - terms of reference for the Residents’ Parking Review
  - Residents’ Parking Review report
  - Cabinet response to the Residents’ Parking Review report
  - draft terms of reference for the Audit Committee
  - Housing Sounding Board papers
  - council website
- A number of telephone face to face interviews and
- observation of a Performance Management and Budget Scrutiny Committee
2.5 The final report was produced in May 2013 and following discussions with Group Leaders it was agreed that the recommendations would initially be considered by the constitution review working Group and the chairs of the Council’s three overview and scrutiny committees. The group is chaired by Councillor Liz Smith and membership is as follows: Councillors Bayliss, Geraghty, Roberts, Squires and Williams. The group met on 22nd August and 16th October to consider the report and its recommendations and to agree the key points for further discussion with the scrutiny committees. This report went to Audit Committee on 11th November, to Performance Management and Budget Scrutiny Committee on 3rd December and to Scrutiny Committee on 26th February 2014.

3. Centre for Public Scrutiny Report – Recommendations

3.1 The CFPS report identified some key messages for the Council as follows:

- Overview and scrutiny is the primary process to hold political leadership and senior management to account for strategic direction and operational performance of council services and to hold other agencies to account for their impact on the wellbeing of local people.

- Councillors involved in the ‘healthcheck’ are not confident that overview and scrutiny currently adds value to the council, other agencies or to local communities but are keen for the function to be more effective in terms of planning, process and impact.

- Officers involved in the ‘healthcheck’ are confident that integrated support co-ordinated through the Performance, Improvement and Efficiency team provides potential for effective overview and scrutiny, although they recognise there are risks with shared support for both executive and scrutiny functions.

- There are opportunities to raise the confidence and ambition of councillors and officers in overview and scrutiny by developing the culture and practice of scrutiny and reflecting on some constitutional aspects of the structure and process for overview and scrutiny.

3.2 The report also recommended that Worcester sets a timetable to reflect and respond on a range of issues set out under three headings;

- How scrutiny is organised
- How scrutiny is planned
- How scrutiny is supported

The detailed actions were considered by the working group who agreed that the actions as set out in Appendix 1 should be considered by the overview and scrutiny committees with a view to agreeing what is to be taken forward to Cabinet, and where appropriate, full Council for approval. Cabinet are asked to consider and approve the actions and the priority attached to each.

4. Working Group – Points for Discussion

4.1 Role of Scrutiny – The CFPS define Scrutiny as:
“an independent function led by local elected councillors that works with local people and other local bodies to help to improve services. It makes recommendations to the council’s “executive” to bring about these improvements”.

4.2 The working group spent some time considering what the role of Scrutiny in Worcester should be and what the Council wants Scrutiny to deliver. The group recommend that Scrutiny should be about all of the following:

- strategic, influencing policy direction
- operational, performance, finance, value for money based with a clear role of holding the Executive to account
- historic, reviewing what has happened
- forward looking supporting improvement
- should scrutinise Council functions/actions and the impact on Worcester residents of performance/delivery of partner organizations and outside bodies and any other issues of concern to local residents.

4.3 There was a general consensus that it is not always clear what the outcomes of scrutiny are currently. For example PMBS is arguably more about performance monitoring than performance management and that there is a need to shift this, for example by considering trend data.

4.4 In summary, it is suggested that the overarching aims of overview and scrutiny should be as follows and that the Council’s constitution should be reviewed to ensure that this is clearly articulated:

- Holding the Cabinet’s decisions and performance to account in a public arena to ensure that the Council’s priorities and targets are being met.
- Reviewing issues that are important to the people of Worcester.
- Examining the work of bodies operating outside the Council, for example relating to community safety.
- Contributing to policy development and helping to shape corporate plans and policies.

4.5 **Work programme and forward planning** – this was identified as an area for improvement. Work programmes should look further ahead, it is also suggested that culturally the Council could do more to open up the work of the scrutiny committees and to engage more with communities, for example using information gathered through consultation to identify priorities for scrutiny reviews.

4.6 The working group consider that it would be helpful for the chairs of overview and scrutiny committees to have regular joint meetings to improve coordination and forward planning for scrutiny.

4.7 **Call in and pre-decision scrutiny** – it was agreed that this is also an area for improvement, and that the way that call in and pre decision scrutiny is used now is driven by a lack of engagement at the early stages of the decision or policy making process. A number of actions were suggested to improve this, for example by including decisions in the forward plan as far ahead of time as possible. The portfolio holder briefing sessions could also be used as an early indicator of emerging decisions or possible new initiatives with a view to considering how and when scrutiny could be engaged.
4.8 There is a need to review the constitution on the issue of call in and pre decision scrutiny to ensure that the process for both pre decision scrutiny and post decision call in is clear. Cabinet are asked to consider whether constitutional changes should be made around who request can post decision call-in, currently any two councillors can request an item be referred to the Scrutiny Committee for pre-decision scrutiny, but, only the Chairman of Scrutiny Committee can call in an item for post decision scrutiny. The Chairman of the Scrutiny Committee was in favour of extending the ability to call-in a decision post-Cabinet beyond solely the Chairman of this Committee, this will require constitutional changes.

4.9 It was agreed that all overview and scrutiny committees have a role to provide constructive challenge. There was also a clear view that political opposition is not a core role or purpose for overview and scrutiny although it was also recognised that inevitably politics will on occasion play into the debate. The CFPS views on this as set out in the report is as follows:

“Scrutiny works most effectively when it generates non-partisan recommendations (but recognising that disagreements will happen from time to time). Political skills used in scrutiny are different to those used in full council and scrutiny works best when it is recognised across the board as an important council function that allows councillors to use their political skills as elected champions for their local community. Scrutiny is less effective when it acts as a party political forum best suited to full council meetings. Investing time to build relationships that support a constructive environment for scrutiny can build trust incrementally between individuals and between political groups.”

4.10 Reporting and feedback – the working group considered the effectiveness and clarity about reporting lines to Council and to and from Cabinet. It was suggested that having a common format and a clearer understanding of the purpose and focus for such reports would be helpful. It was also suggested that the mechanism for feedback from cabinet back to scrutiny could be improved for example by capturing why Cabinet has or hasn’t agreed to act on recommendations from overview and scrutiny. The Scrutiny Committee expressed a view that steps have already been taken to improve the reporting lines to and from Cabinet, and for feeding back comments from Cabinet to Scrutiny.

5. Role of the Audit Committee

5.1 The healthcheck also considered whether the Audit Committee should continue as a Scrutiny Committee or as a committee of the Council. This question was not fully addressed in the report but it was suggested that the Council conduct a terms of reference review to clarify the relationship between the Audit Committee and full Council regarding corporate governance, probity, risk and assurance.

5.2 New CIPFA guidance was published in December 2013 and states that:

“The purpose of an audit committee is to provide to those charged with governance independent assurance on the adequacy of the risk management framework, the internal control environment and the integrity of the financial reporting and annual governance processes”

5.3 The guidance does not prescribe a single model for Audit Committees but it does make a number of suggestions that are pertinent to this review notably that the Audit Committee should:
Act as the principal non executive, advisory function supporting those charged with governance.
In local authorities be independent of both the executive and scrutiny function.
Have clear rights of access to other committees/ functions for example scrutiny, corporate risk management boards and other strategic groups.
Be properly accountable to the Council.

Currently the Audit Committee at Worcester City Council is an Overview and Scrutiny Committee and reports to the Cabinet. The CIPFA guidance suggests that as it is the Council itself which is “charged with governance” then that is the body which the Audit Committee should report to and that in the UK this is the norm. Two key disadvantages are identified in relation to our current arrangements as follows:

1. By not reporting to full Council the Audit committee may not be supporting that body in discharging its governance responsibilities; and
2. Councillors and members of the public may see the Audit Committee as not being independent of the Executive.

Cabinet are asked to consider recommending to full Council that the Audit Committee should be a Committee of the Council and that the constitution is amended accordingly. The rules of political balance would continue to apply.

Any change to the role of the Audit Committee need not have implications for the size of the remaining Overview and Scrutiny committees which can be determined by full Council. The Council’s current constitution provides that:

“All Councillors except Members of the Cabinet may be members of an Overview and Scrutiny Committee”.

This could be amended to read:

“All Councillors except Members of the Cabinet may be members of an Overview and Scrutiny Committee or the Audit Committee”. (section 4 para 5.2 Overview and Scrutiny procedure rules).

The working group identified a number of opportunities to improve the way the Audit Committee works now and the Audit Committee agreed that:

More could be done to understand the role of the Audit Committee in relation to wider governance issues. In relation to this the Audit Committee also agreed that it would be helpful to have greater clarity on the role of the Committee.
More could be done to flag up issues and reference them across to other scrutiny committees for review as and when appropriate.
Greater clarity is needed in the constitution in relation to reporting routes to Council/ Cabinet.

The CIPFA guidance covers a broad range of practical considerations for the role of and function of the Audit Committee and it may be beneficial to provide a summary of key points to the Audit Committee for consideration and to support a review of current practice, which could potentially help address the issues identified at 5.7 above.
6. **Next steps**

6.1 This report and the action plan have now been reported to all three of the Council’s Scrutiny Committees for discussion, the feedback from the committees has been incorporated into the report above. Emerging from this there appears to be broad agreement the actions set out in the action plan should be taken forward, although these were not prioritised by the Scrutiny Committees.

6.2 The working group suggested that once the Scrutiny Committees had had the opportunity to consider the action plan and the discussion points as set out in this report that it might be useful to engage an independent expert to support the development of a final improvement plan. In reporting the action plan to the committees there was no strong dissent expressed by any of the committees about the action plan, it is therefore suggested that Cabinet approve the action plan as attached for implementation, referring individual actions, for example the constitutional changes, to full Council for final approval, as appropriate.

7. **Equalities, Financial, Health and Safety, HR, Legal, Policy, and Risk Management Implications**

7.1 Policy – Effective scrutiny has a key role to play in both policy development and challenging the effectiveness of delivery against policy objectives.

7.2 Legal – any constitutional changes to the role and remit for scrutiny will need to be consistent with the legislative framework for scrutiny. The review of the scrutiny function may require some changes to be made to the Council’s constitution and would be subject to approval by full Council. The new CIPFA guidance has been considered in relation to the Audit Committee though it should be noted that this is not statutory guidance.

7.3 Equalities – none directly arising from this report.

7.4 Financial – There are potential financial implications if Cabinet decide to appoint an independent expert to support this review. This would be met from the Scrutiny budget within the PIE service.

7.5 Risk – Scrutiny forms a key part of the Council’s governance arrangements, the Audit Committee is a key source of assurance about the organisation’s arrangements for managing risk and maintaining an effective control environment.

8. **Comments of the Monitoring Officer**

8.1 The review of Scrutiny offers a useful opportunity to reflect on current arrangements and to decide how best we take scrutiny forward and ensure that it is as effective as possible. The action plan sets out a range of actions which will enable the Council to address the issues which are outstanding following the review of the constitution.

9. **THE MONITORING OFFICER RECOMMENDS:**

1. That Cabinet consider the report and approve the action plan for implementation.

2. That Cabinet recommend to full Council that the Audit Committee becomes a Committee of the Council, in line with CIPFA guidance.
3. That Cabinet recommend to full Council the constitutional changes, including amendments to the call in procedures, as identified in the report above.

Ward(s): All wards  
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Background Papers: Centre for Public Scrutiny Report