

AGENDA MANAGEMENT SHEET

Name of Committee Overview and Scrutiny Co-Ordinating Group

Date of Committee 7 March 2006

Report Title Alternative Models of Overview and Scrutiny

Summary The report sets out alternative suggestions for alternative models for Overview and Scrutiny

For further information please contact:

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Would the recommended decision be contrary to the Budget and Policy Framework? No.

Background papers None

CONSULTATION ALREADY UNDERTAKEN:- Details to be specified

- Other Committees
- Local Member(s) N/A
- Other Elected Members
- Cabinet Member
- Chief Executive
- Legal Jane Pollard
- Finance
- Other Chief Officers
- District Councils
- Health Authority

Police

Other Bodies/Individuals

FINAL DECISION No

SUGGESTED NEXT STEPS: Details to be specified

Further consideration by this Committee

To Council

To Cabinet

To an O & S Committee

To an Area Committee

Further Consultation

Overview And Scrutiny Co-Ordinating Group - 7 March 2006.

Alternative Models for Overview and Scrutiny

Report of the Strategic Director of Performance and Development

Recommendations

- (1) That the Group considers and comments on the options outlined in the report.
- (2) That the Group identifies any options it would wish to consider in more detail.

Current Position

1. I have been asked to bring forward a paper on possible alternative models for Overview and Scrutiny Committee. Currently the Council has 7 Overview and Scrutiny Committees. Six focus primarily on how the Council delivers services (whether or not in partnership with others) and the seventh looks at how health services in Warwickshire operate. The latter has different powers as its focus is on external health bodies. The other six committees align to a certain extent with the Cabinet portfolios but they were not set up to reflect the former nine departments, although some followed the departmental structures more closely than others.
2. The base legislative requirements which govern the arrangements are that
 - No member of the Cabinet may be a member of an overview and scrutiny committee or sub-committee
 - The committee and sub-committees are subject to the political balance requirements
 - The Committee or Committees (if more than one) must have power to scrutinise or review any of the Councils functions
 - The Committee must have the power to consider 'call-ins' of executive decisions
 - Whilst Overview and Scrutiny Committees can co-opt members they are not voting members without specific statutory provision.
3. In considering any alternative arrangements members will also need to take into account that
 - (a) the powers of the Health Overview and Scrutiny Committee are different from the other Committees because it is focused on NHS bodies rather than

the Council, therefore, for example, it does not have any 'call-in powers' as these only apply to executive functions of the Council.

(b) the Health Overview and Scrutiny Committee has district/borough councils as voting members, as this is provided for in the co-option arrangements governing health overview and scrutiny committees.

(c) Any committee or sub-committee covering education functions is statutorily obliged to have 2 parent governor and 2 church representatives, who are also voting members.

Other Options

4. There are obviously numerous options. Members might wish to consider whether or not Overview and Scrutiny Committees should reflect the terms of reference for the new directorates and/or Cabinet portfolios if these are different. For example committees along directorate lines would be

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| <p>Performance and Development Overview and Scrutiny Committee <i>Change Management, Law and governance, Human Resources, Customer Service and Access, Communications and Media</i></p> |
| <p>Resources Overview and Scrutiny Committee <i>Finance, Strategic Resource Development, ICT, Property, Traded Services and Facilities Management</i></p> |
| <p>Adult, Health and Community Overview and Scrutiny Committee <i>Libraries, Adult Learning and Culture, Older People, Trading Standards and Healthier Communities, Mental Health and Disability</i></p> |
| <p>Children Young People and Families Overview and Scrutiny Committee <i>Education partnerships, Schools, Children, Young People and Family Support Services</i></p> |
| <p>Community Protection Overview and Scrutiny Committee <i>Fire and Rescue Service, Emergency Planning, Community Safety</i></p> |
| <p>Environment and Economy Overview and Scrutiny Committee <i>Waste and Environment, Transport and Highways, Skills, Tourism and Economy, Rural and Recreation services</i></p> |
| <p>Health Overview and Scrutiny Committee <i>To review and or scrutinise any matter relating to the planning, provision and operation of health services serving Warwickshire</i></p> |

5. The appendix sets out an alternative model based on an overarching Overview and Scrutiny Committee and also gives examples of possible terms of reference for standing sub-committees, select committees and panels/task and finish groups. The model assumes Health is included, an alternative would be to have an overarching committee for the 'Council functions' and keep the health overview and scrutiny committee as a separate body.

Other Issues

6. There are various suggestions and proposals at the moment to extend the role of local authority scrutiny to the Police and Crime & Disorder Partnerships. Scrutiny of other bodies (apart from health bodies) at the moment relies on the co-operation of the agencies involved. However we may see over the next 12 months an extension of statutory powers to include other agencies.
7. Neighbourhood governance and the effective scrutiny of arrangements at a local level are issues which are central to the debate over the future of local government. The Area Committees currently discharge certain executive and non-executive functions. They can carry out performance management on behalf of Cabinet in relation to local areas. As currently constituted they would be unable to discharge overview and scrutiny functions because (a) they include Cabinet members and (b) overview and scrutiny functions cannot be combined with other functions (apart from best value reviews). Any delegation of overview and scrutiny functions to area level would require a different configuration at that level.

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16 February 2006

Appendix - Overarching Overview and Scrutiny Committee

1. This model is based on the premise that the Council delegates all its overview and scrutiny functions, including those relating to Health (and also the responsibility for conducting best value reviews) to a single Committee. Thereafter it is for the Committee to determine what sub-committees and/or panels it wishes to establish, in order to deliver its work programme. The Committee would therefore gate-keep the work to be undertaken and the member resources to be deployed.
2. There are obviously numerous options, one of which is simply to create 7 standing sub-committees with the same terms of reference as the current committees. The rationale in these circumstances for the establishment of the overarching Committee would be to replace the Co-ordinating Group with a stronger overall Overview and Scrutiny management group
3. The Committee would be responsible for considering all 'call-ins' unless it delegated its functions in this regard to one or more of its 'standing' sub-committees. For example if there was a standing sub-committee dealing with education functions this sub-committee could have delegated powers to deal with 'call-in' in relation to education matters.
4. The role of the Committee in practice will depend very much on the type of underpinning structure it would wish to establish. It could delegate most of its responsibilities apart from the overall management and organisation of overview and scrutiny to a combination of sub-committees and panels. Alternatively it could decide to carry out some overview and scrutiny itself.
5. It is suggested that Panels should be established where the Committee wishes some detailed work carried out but expects a report back to the Committee prior to any recommendations to another body being formalised. Panels should be time limited and task orientated. Panels may be seen as 'task and finish' groups. Sub-Committees should be established where it is intended that the Sub-Committee will discharge the role of the Committee in respect of a matter or area of activity, without a requirement to report back to the main Committee in advance.
6. Members may wish to have some sub-committees which are 'standing sub-committees' and others which are time-limited and set up to complete a particular task (e.g. select committee). The Children & Young People O&S Committee (as the Committee covering education functions) is statutorily obliged to have 2 parent governor and 2 church representatives. Under the new model either these representatives must be members of the Committee or the terms of reference of one of the 'standing sub-committees' must include education functions.
7. Similarly the current Health Overview and Scrutiny Committee has members appointed from the five district/borough councils. These members have voting rights under the co-option arrangements. Members will need to consider whether or not such arrangements should continue under any new model and

if the 'health scrutiny function' given its 'outward facing nature' should be delegated to a sub-committee.

8. This means that when considering the establishment of sub-committees it would be necessary to give particular consideration to the desirability of at least two 'standing sub-committees' one incorporating education functions (including the church/parent governor representatives) and one for health scrutiny functions (including the district council representatives).
9. The work programmes of the current Overview and Scrutiny Committees should provide a reasonable basis for deciding whether or not there is a need for any other standing sub-committees or whether the issues can be dealt with by time-limited sub-committees/panels operating as select committees or task and finish groups for particular issues or a group of issues.

Overarching Overview and Scrutiny Committee

Composition – 12/14 elected members of the Council appointed in accordance with the political balance rules none of whom are Cabinet members. Currently this would mean

Conservative 5 Labour 4 Liberal Democrat 3 = 12

Conservative 6 Labour 5 Liberal Democrat 3 = 14

Note

Unless there was a standing sub-committee to deal with education matters the following would also need to be members of the committee

2 parent governor representatives

2 church representatives

Terms of reference

To review and/or scrutinise the exercise of any functions of the Council and matters relating to the health service in Warwickshire

General Powers

- i. agree the work programme for overview and scrutiny and the arrangements for its delivery
- ii. assist the Council and the executive in the development of its budget and policy framework by considering policy issues;
- iii. make reports and/or recommendations to the full Council and/or the executive and/or other committees, including joint or area committees in connection with the discharge of any functions;
- iv. review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- v. conduct best value reviews in accordance with the programme agreed by the Council and make recommendations to the executive arising out of those reviews;
- vi. question members of the executive and other committees and chief officers about their views on issues and proposals affecting the area.
- vii. exercise the right to call-in decisions made but not yet implemented by the executive, any area committees exercising executive functions and officers making key executive decisions;
- viii. consider any matter affecting the area or its inhabitants;
- ix. report annually to full Council on its work.

In exercise of the Council's powers to scrutinise Health matters under sections 21(2)(f) Local Government Act 2000 the Committee may

- make reports and recommendations to a local NHS body being a Strategic Health Authority, a Primary Care Trust or NHS Trust which provides or arranges the provision of, or performs any management function in relation to services to persons residing in Warwickshire
- in making such reports and recommendations it shall include
 - i. an explanation of the matter reviewed or scrutinised
 - ii. a summary of the evidence considered
 - iii. a list of participants involved in the review or scrutiny
 - iv. any recommendations on the matter reviewed or scrutinised
- make reports to the Secretary of State for Health where the Committee considers that a proposal by a local NHS body for a substantial development or substantial variation of the health service in Warwickshire would
 - not be in the interests of the health service in Warwickshire
 - that the arrangements for consulting on such a proposal are inadequate
 - the reasons given for not consulting on such a proposal are inadequate.
- require a local NHS body on reasonable notice to provide the Committee with such information, other than confidential or prohibited information as defined in Regulation 5 Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002, about the planning, provision and operation of health services in Warwickshire as the committee may reasonably require in order to discharge its functions
- require members of the executive, other committees or chief officers of the council or an officer of a local NHS body on reasonable notice to attend the committee and answer such questions as appear necessary for discharging the functions of the Committee. No member or officer shall be required to provide confidential or prohibited information as defined in the relevant Regulations nor answer any question he or she could refuse to answer for the purpose of proceedings in a court in England and Wales.

Delegation (Extract from the general scheme of delegation)

The Overview and Scrutiny Committee shall have power to

- Re-delegate to any Sub Committee appointed by it all or any of the powers and duties delegated to it by the Council.
- Impose any conditions or restrictions it thinks fit on the exercise of powers and duties by any of its Sub Committees.
- Appoint a Panel(s) to advise it on any power or duty delegated to it.

Note: Panels would be expected to make recommendations back to the Overview and Scrutiny Committee before reports/recommendations went elsewhere

Example of delegations to Sub-Committees/Panels

| Name | Terms of reference |
|---|--|
| <p>Children & Young People Overview and Scrutiny Sub-Committee</p> <p><i>(Example of a Standing Sub-Committee)</i></p> | <p>To advise on the development of policies and to scrutinise performance in relation to learning, including primary schools, secondary schools, special educational needs, learning and skills council, further and higher education and business links, pre-statutory age education, youth and community education services, connexions, libraries, heritage, art and culture</p> |
| | <p>General Role</p> |
| | <p>Within its terms of reference to</p> <ul style="list-style-type: none"> ➤ assist the Council and the executive in the development of its budget and policy framework by considering policy issues; ➤ make reports and/or recommendations to the full Council and/or the executive and/or other committees, including joint or area committees in connection with the discharge of any functions; ➤ review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions; ➤ conduct best value reviews in accordance with the programme agreed by the Council and make recommendations to the executive arising out of those reviews; ➤ question members of the executive and other committees and chief officers about their views on issues and proposals affecting the area. ➤ report annually to the Committee on its work. |
| <p>Rural Areas Overview and Scrutiny Sub-Committee</p> <p><i>(Example of a Select Committee)</i></p> | <p>Terms of reference</p> <p>To review the impact of the Council's policies and services on Rural Areas and to make proposals for any changes to Cabinet by 31 January 2006</p> <p>To question members of the executive and other committees and chief officers about their views on issues and proposals affecting rural areas.</p> |
| <p>Rural Areas Panel</p> <p><i>(Example of a Task & finish group)</i></p> | <p>Terms of reference</p> <p>To review the impact of the Council's policies and services on Rural Areas and to make proposals for any changes to the Overview and Scrutiny Committee by 31 January 2006</p> <p>To question members of the executive and other committees and chief officers about their views on issues and proposals affecting rural areas.</p> |

| Name | Terms of reference |
|---|---|
| Health Overview & Scrutiny Sub-Committee <i>(Example of a Standing Sub-Committee)</i> | To review and or scrutinise any matter relating to the planning, provision and operation of health services serving Warwickshire |
| | General Role |
| | <p>Within its terms of reference to</p> <ul style="list-style-type: none"> • make reports and/or recommendations to the full Council and/or the executive and/or other committees, including joint or area committees in connection with the discharge of any functions; • report annually to the Committee on its work • question members of the executive and other committees and chief officers about their views on issues and proposals affecting the area. • make reports and recommendations to a local NHS body being a Strategic Health Authority, a Primary Care Trust or NHS Trust which provides or arranges the provision of, or performs any management function in relation to services to persons residing in Warwickshire • in making such reports and recommendations it shall include <ul style="list-style-type: none"> v. an explanation of the matter reviewed or scrutinised vi. a summary of the evidence considered vii. a list of participants involved in the review or scrutiny viii. any recommendations on the matter reviewed or scrutinised • make reports to the Secretary of State for Health where the Committee considers that a proposal by a local NHS body for a substantial development or substantial variation of the health service in Warwickshire would <ul style="list-style-type: none"> ○ not be in the interests of the health service in Warwickshire ○ that the arrangements for consulting on such a proposal are inadequate ○ the reasons given for not consulting on such a proposal are inadequate. • require a local NHS body on reasonable notice to provide the Committee with such information, other than confidential or prohibited information as defined in Regulation 5 Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002, about the planning, provision and operation of health services in Warwickshire as the committee may reasonably require in order to discharge its functions • require members of the executive, other committees or chief officers of the council or an officer of a local NHS body on reasonable notice to attend the committee and answer such questions as appear necessary for discharging the functions of the Committee. No member or officer shall be required to provide confidential or prohibited information as defined in the relevant Regulations nor answer any question he or she could refuse to answer for the purpose of proceedings in a court in England and Wales. |