



Scrutiny Programme Board

Date:	Wednesday, 4 January 2012
Time:	6.00 pm
Venue:	Committee Room 1 - Wallasey Town Hall

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AGENDA

1. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST/PARTY WHIP

Members are asked to consider whether they have personal or prejudicial interests in connection with any item(s) on this agenda and, if so, to declare them and state what they are.

Members are reminded that they should also declare, pursuant to paragraph 18 of the Overview and Scrutiny Procedure Rules, whether they are subject to a party whip in connection with any item(s) to be considered and, if so, to declare it and state the nature of the whipping arrangement.

2. MINUTES (Pages 1 - 4)

To receive the minutes of the meeting held on 8 September 2011.

(NB Members are invited to note that at its meeting held on 17 October 2011 (minute 48), the Council approved the recommendations of the Scrutiny Programme Board to amend the Constitution, to streamline the call-in process (minute 12 (8 September 2011) refers).

3. EQUALITY IMPACT ASSESSMENTS (Pages 5 - 20)

Centre for Public Scrutiny Policy Briefing 12

4. NEW LEGISLATIVE FRAMEWORK - UPDATE (Pages 21 - 42)

Centre for Public Scrutiny Policy Briefing 14

5. FORWARD PLAN

The Forward Plan for the period January to April 2012 has now been published on the Council's intranet/website. Members are invited to review the Plan prior to the meeting in order for the Scrutiny Programme Board to consider, having regard to the work programme, whether scrutiny should take place of any items contained within the Plan and, if so, how it could be done within relevant timescales and resources.

6. WORK PROGRAMMES OF OVERVIEW AND SCRUTINY COMMITTEES (Pages 43 - 80)

- Council Excellence
- Children and Young People
- Economy and Regeneration
- Health and Well Being
- Sustainable Communities

7. REVIEW OF SCRUTINY PROGRAMME BOARD WORK PROGRAMME

The Scrutiny Programme Board is requested to consider whether any matters should be added to its Work Programme for the remainder of the municipal year, having regard to its terms of reference and available timescales.

8. ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR (PART 1)

9. EXEMPT INFORMATION - EXCLUSION OF MEMBERS OF THE PUBLIC

The public may be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information.

RECOMMENDED – That in accordance with section 100A (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business, on the grounds that they involve the likely disclosure of exempt information as defined by the relevant paragraphs of Part 1 of Schedule 12A (as amended) to that Act. The public interest test has been applied and favours exclusion.

10. ANY OTHER URGENT BUSINESS APPROVED BY THE CHAIR (PART 2)

SCRUTINY PROGRAMME BOARD

Thursday, 8 September 2011

<u>Present:</u>	Councillor	A Hodson (Chair)	
	Councillors	S Mountney P Glasman A Bridson RL Abbey	P Hackett T Smith A Sykes KJ Williams
<u>Deputies:</u>	Councillors	J Keeley (In place of C Blakeley)	
<u>In attendance:</u>	Councillor	J Green	

10 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST/PARTY WHIP

Members were asked to consider whether they had personal or prejudicial interests in connection with any item(s) on this agenda and, if so, to declare them and state what they were. Members were reminded that they should also declare, pursuant to paragraph 18 of the Overview and Scrutiny Procedure Rules, whether they were subject to a party whip in connection with any item(s) to be considered and, if so, to declare it and state the nature of the whipping arrangement.

No such declarations were made.

11 MINUTES

Resolved – That the minutes of the meeting held on 9 June 2011, be approved.

12 OPTIONS FOR STREAMLINING SCRUTINY CALL-IN PROCESS

Further to minute 4(3) (9 June 2011), the Director of Law, HR and Asset Management referred to the requirements of the Local Government Act 2000 in relation to a call-in mechanism and to the Call-in Guidelines and Committee Terms of Reference contained within the Council's constitution. In order to attempt to make the Scrutiny Call-In process more efficient and to ensure scrutiny call-ins were considered as quickly as possible, the Director had considered a number of options for consideration, having examined the practice adopted by each Merseyside and Cheshire Local Authority, which he submitted for information. The options for consideration included –

- the establishment of a Call-in Committee with Terms of Reference to consider all Call-ins received;
- amendment of the Scrutiny Programme Board's Terms of Reference so that it could deal with all call-in notices without referring them to any of the Overview and Scrutiny Committees, with Members of the relevant Committee(s) being able to make representations;
- delegating authority to the Chief Executive (or the Director of Law, HR and Asset Management on his behalf) in consultation with the Chair of the Scrutiny

Programme Board to allocate the call-in notice to the appropriate Overview and Scrutiny Committee or to the Board itself, for consideration.

On a motion by Councillor Hodson and seconded by Councillor Mountney, it was –

Resolved –

- (1) That the Scrutiny Programme Board notes the bureaucratic and cumbersome way current Call-In requests are allocated, with the associated costs in officers time.**
- (2) Therefore, the Scrutiny Programme Board recommends that the Council's Constitution and processes be amended to allow the Chief Executive or the Director of Law, HR and Asset Management, in consultation with the Chair and spokespersons of the Scrutiny Programme Board to allocate the Call-In notice to the appropriate Overview and Scrutiny Committee, or to the Board, for consideration.**
- (3) That, if it is not possible for agreement to be reached by the group spokespersons, the Call-In notice be referred to the Scrutiny Programme Board for a decision on allocation.**

13 **SUMMARY OF COMPLAINTS MADE UNDER THE MEMBERS' CODE OF CONDUCT**

The Director of Law, HR and Asset Management presented a summary of all the complaints made against Wirral Members that had alleged that the Council's Members' Code of Conduct had been breached. He outlined key changes that had been made to the ethical framework, under which local authorities were required to operate in relation to Standards Committees, which resulted in changes to the Council's Constitution, namely amendments to the Standards Committee's Terms of Reference being approved by the Council (minute 43 (14 July 2008) refers).

The Director provided a chronological summary of each complaint received since the new ethical framework came into force. He commented that an issue with the current regime was that if a complaint was overplayed, it was more likely to be referred for investigation and that would have associated cost and timescale implications. Nevertheless, there were excessive delays in relation to some cases and he apologised with regard to one in particular, where he had made a personal error, which led to an unacceptable delay. In response to questions from Members, the Director agreed to provide more detailed information on outcomes and costs by way of email. He commented also upon the progress of the Localism Bill, presently going through the House of Lords, which was likely to result in a local regime being put in place. However, the existing regime would be retained until it was abolished and he proposed to present a further report with regard to transitional arrangements once more information was made available.

The Chair circulated a proposed motion for Members consideration in relation to the time taken for Standards complaints to be determined and, which also suggested a new approach to handling Standards complaints. The Director of Law, HR and Asset Management commented briefly on the suggested motion and advised the Committee that, in the circumstances, it would be appropriate for him to leave the room for the ensuing debate.

On a motion by Councillor A Hodson and seconded by Councillor S Mountney, it was –

Resolved –

- (1) That the Scrutiny Programme Board is alarmed and disappointed to note the amount of time it is taking to determine Standards complaints, with some complaints taking almost two years to complete, and believes that this is unfair to both complainants and to those complained against.**
- (2) That the Scrutiny Programme Board is also concerned about the amount of time being taken from the registration of a complaint to allocating to an Initial Assessment Panel and notes that, in one reported case this was in excess of 16 weeks.**
- (3) That the Scrutiny Programme Board is aware that individual Members of the Council as well as the Standards Committee have made repeated representations to the Director of Law, HR and Asset Management and his Department about their concerns because of delays and have asked for the process to be speeded up.**
- (4) That the Scrutiny Programme Board notes that despite repeated requests to the Director of Law, HR and Asset Management, no apparent improvements have been made to the way in which Standards complaints are being handled and unacceptable delays are still being allowed to occur.**
- (5) That the summary of complaints received by the Council, set out in the appendix to the report now submitted, in relation to alleged breaches of the Council's Members' Code of Conduct, be noted.**
- (6) That the Standards Committee be recommended to put in place proper timescales and a monitoring regime for dealing with complaints.**

14 NEW REPORT TEMPLATE

The Director of Law, HR and Asset Management reported that changes to the report template had been considered in response to views previously expressed by the Board. He now proposed to discuss the proposed amendments with the Leader of the Council.

Resolved – That the report be noted.

15 NEW GOVERNANCE MODEL - UPDATE ON DISCUSSIONS WITH PARTY LEADERS

The Director of Law, HR and Asset Management reported upon general informal discussions in relation to governance that had taken place with the Group Leaders prior to the local elections in May 2011. He indicated that it was fair to say, there had not been a unanimous view expressed. However, further discussions would take place once the final form of the Localism Bill was known.

Resolved – That the report be noted.

16 CFPS BRIEFING NOTE 11 - DATA, TRANSPARENCY AND OPENNESS

The Director of Law, HR and Asset Management presented for Members' consideration the Centre for Public Scrutiny (CfPS) Policy Briefing 11 – Data,

Transparency and Openness, which provided information in relation to the Government's approach to data transparency, Freedom of Information and about being more innovative about the presentation and use of data.

Resolved – That the Briefing Note be noted.

17 **FORWARD PLAN**

The Director of Law, HR and Asset Management reported that the Forward Plan for the period September to December 2011 was published on the Council's intranet/website and Members had been invited to review the Plan prior to the meeting in order for the Scrutiny Programme Board to consider, having regard to its work programme, whether scrutiny should take place of any items contained within the Plan and, if so, how it could be done within relevant timescales and resources.

Resolved – That the Forward Plan be noted.

18 **WORK PROGRAMMES OF OVERVIEW AND SCRUTINY COMMITTEES**

The Director of Law, HR and Asset Management presented for the Board's consideration the Work Programmes of the Council Excellence, Children and Young People, Economy and Regeneration and Sustainable Communities Overview and Scrutiny Committees. The Health and Well Being Work Programme was not available in time for the meeting and he proposed that it be circulated to Members by email upon receipt.

In response to a question from a Member in relation to Scrutiny Reviews, the Director indicated that they were submitted to the Cabinet for consideration and would not normally be presented to the Scrutiny Programme Board, unless there were specific recommendations to it.

Resolved –

(1) That the Scrutiny Work Programmes now submitted, be noted.

(2) That the Work Programme for the Health and Well Being Overview and Scrutiny Committee be circulated to Members when it is available.

19 **REVIEW OF SCRUTINY PROGRAMME BOARD WORK PROGRAMME**

The Scrutiny Programme Board was requested to consider its Work Programme for the ensuing municipal year and, having regard to its terms of reference and available timescales, to determine whether any changes should be made to it.

Resolved – That the Work Programme be noted.

Equality impact assessments



Policy Briefing 12

September 2011

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Further to the Equalities Act 2010, public bodies are now under a duty to consider the impact of their decisions on those people who identify with any of the nine “protected characteristics” in the Act. As well as ensuring that people are not subject to discrimination, this also involves taking positive steps in the policy development process to build in an understanding of the needs of people from different minorities.

An intrinsic part of this is the preparation of “equality impact assessments” (EqIAs, sometimes known as EIAs¹), documents which should be produced by public sector bodies whenever a policy is being developed. An EqIA allows the authority to make a judgment as to whether a policy will have unintended, negative consequences for certain people. It can also help to maximise the positive impacts of policy changes, and make improvements more effective on the ground.

This briefing explores how scrutiny itself can use EqIAs to examine council and partner policy changes, and how scrutiny can mainstream an understanding of equality into its own work, in order to become more effective.

Section 1 draws on information available at <http://www.idea.gov.uk/idk/core/page.do?pageld=8017174> and guidance produced by the Equality and Human Rights Commission, published at http://www.equalityhumanrights.com/uploaded_files/eiaguidance.pdf

This briefing also draws on a previous publication, “Equal to the task”, published by CfPS in 2007.

Contents

1. What is “equality”, and what are equality impact assessments?
2. How scrutiny can use equality impact assessments in investigations.
3. How scrutiny can use equality impact assessments to make its recommendations more robust

¹ Most of the equality-specific literature uses the initials EIA, but this abbreviation is also used for economic or environmental impact assessments in different contexts. This briefing will use EqIA to avoid any confusion.

1. What is “equality”, and what are equality impact assessments?

What is “equality”?

- 1.1 The notion of equality is that people deserve to be given the same opportunities, and to be treated with the same respect, irrespective of their personal choice, personal circumstances, or how they identify themselves. A variety of legislation has been passed over the past two hundred years – ranging from the abolition of slavery in the early 19th century, through the Married Women’s Property Act 1882, to the Equalities Act 2010 – which have aimed to reduce or eliminate the practice of discrimination against certain people or groups of people.
- 1.2 These protections have been deemed necessary by Parliament to ensure that people who might otherwise be disenfranchised and vulnerable – because they are in a minority, for example – cannot be ignored because of who they are. While in some instances the market has helped to resolve some of these issues – disability access in certain shops, for example, was not uncommon before the implementation of the Disability Discrimination Act, because of a clear customer need – some people or groups of people lack the economic or political power to ensure that they are treated the same as others. As such, legal protection is necessary to ensure that they can play an equal part in society, and that they can rely on equal treatment in the delivery of services either by private or public bodies.
- 1.3 There have been a number of significant examples of discrimination in the past that successive Acts of Parliament and other provisions have helped to combat:
 - “Equal pay for work of equal value” for women and those in ethnic minorities²;
 - Respect for the cultural differences of those in ethnic and religious minorities (most prominently in the imposition of staff uniforms for certain jobs, such as Sikh police officers³);
 - Forms of discrimination which are more “passive” – public infrastructure which is not designed to meet the needs of those in wheelchairs, for example⁴.
- 1.4 Article 8 of the European Convention on Human Rights⁵ (incorporated into UK law by the Human Rights Act 1998) provides protection for people’s

² Equal Pay Act 1970

³ Race Relations Act 1976, Racial and Religious Hatred Act 2006

⁴ Disability Discrimination Act 1995

⁵ <http://conventions.coe.int/treaty/en/Treaties/Html/005.htm>

private and family life, which can be seen as a necessary partner to the rights conferred in the Equality Act. Section 14 of the Act⁶ provides general protections against discrimination, which again can be seen in the context of the duties in the Equality Act.

- 1.5 The rights we are talking about apply equally to all people. By definition they are not restricted to a certain group or groups and cannot be “lost” or rescinded because of personal behaviour, or the behaviour of a group of people. This is the nature of the rule of law, of human rights and of the principle of equality itself, and is why they apply to people who may not be popular in the rest of the society – asylum seekers, terrorists, and prisoners, for example. If rights – and the principles around equality of treatment that underpin them – can be withdrawn on general principles (ie because of the characteristics of a particular class of person) they cease to be rights and become privileges⁷. It should be noted the European Convention contains several specific qualifications to some of the human rights it protects⁸. Under the Equality Act, however, there are no circumstances in which rights can be withdrawn⁹.

The public sector equality duty

- 1.6 In April 2011 the public sector equality duty came into force, following the coming into force of the Equality Act in October 2010. The new duty differs slightly in England, Wales and Scotland, reflecting the national devolution settlements. Nationwide, a statutory Code of Practice has been published which has legal force and which sets out some basic requirements.
- 1.7 The duty covers the nine “protected characteristics” in the Act – age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex and sexual orientation.
- 1.8 The general duties in the Act apply to “services”¹⁰ whether or not delivered by a public body. These are so-called “negative” duties – essentially, a duty not to discriminate against anyone on account of the protected characteristics. The focus with negative duties lies in identifying where discrimination has happened and remedying the situation.

⁶ <http://www.legislation.gov.uk/ukpga/2010/15/contents>

⁷ This universality is the principle underpinning the concept of human rights. It is given prominence in the Universal Declaration on Human Rights (1949)

⁸ For example, the right to “derogate” from certain rights during a state of emergency.

⁹ Although there are some minor exceptions which can be applied under certain circumstances (carriage of assistance dogs in taxis, for example).

¹⁰ It was on the basis of these wide provisions around services that the publicity around the legality, or otherwise, of B&B owners turning away gay guests was centred – see <http://www.guardian.co.uk/politics/2010/apr/09/chrisgrayling-general-election-2010>

- 1.9 The public sector duty is slightly different. As well as a duty not to discriminate, the public sector equality duty (PSED) imposes a requirement to consider the needs of those people with the protected characteristics when making decisions. There is also a requirement to consider socio-economic equality in decision-making. This bolsters the need to carry out equality impact assessments. The responsibility to consider equality in strategic planning gives the PSED a different flavour – it contains “positive” equality duties. Positive duties are usually regarded as having three elements:
- consultative policy-making processes
 - the need to “mainstream” equality
 - the carrying out of impact assessments on the likely effects of forthcoming decisions¹¹.
- 1.10 Sections 31 and 32 of the Equality Act gives the Equalities and Human Rights Commission (EHRC) the power to issue a “compliance notice” if these positive duties are not being carried out. Individuals disadvantaged by public sector decisions can still bring an action under the Human Rights Act 1998¹².
- 1.11 Why is the difference between a “negative” and a “positive” duty an important one? – the difference is not an academic one. Strong opinions were expressed by campaigners as the Act was introduced in Parliament, who felt that the emphasis on negative duties would risk service providers, including public authorities, adopting a “reactive” approach to equalities.
- 1.12 Essentially, this means that negative duties aim to prevent one behaviour, rather than encouraging another. It places the burden and responsibility for equality on the minority (bringing the action or making the complaint) rather than on the institution (which is not under a duty to take a positive approach to equality)¹³. A criticism of the “anti-discrimination” ethos is that it sets those with protected characteristics apart from the rest of the community, implying that “normal” services are, and should be, designed for the majority of people¹⁴. It also creates difficulties when more than one of the protected characteristics come into play, because the complainant will need to prove which of these characteristics has provoked the discrimination being complained of¹⁵.
- 1.13 So, while public authorities (including councils) are under a positive duty to promote equality and think about the effects of their decisions on a wider range of people, the negative focus of the rest of the Act on anti-

¹¹ Feldman, 2002

¹² Negative anti-discrimination duties are set out in section 14 of the Act

¹³ McLaughlin, 2007

¹⁴ Ibid

¹⁵ Doyle, 2006

discrimination could risk promoting the development of a compliance culture which focuses on the form rather than the substance of the duty. The equivocal nature of the response to the imposition, and subsequent abolition¹⁶, of the duties to involve¹⁷ and to promote local democracy¹⁸ support the view held by many experts in that area that the focus on formal “duties” to engage people in particular ways was not an entirely helpful approach.

- 1.14 This potential tension is particularly apparent in the production of equality impact assessments (EqIAs). As we will see, the effective production of EqIAs relies on the principles of equality being “mainstreamed” within the wider decision-making processes of the authority, which we will go on to consider in the next section.

What are equality impact assessments?

- 1.15 The basics - Equality impact assessments (EqIAs) are analyses of any policy, service or proposal for change. At their most basic level, EqIAs provide an opportunity to ensure that the authority (or its partners) are complying with their statutory obligations around the nine protected characteristics mentioned above.
- 1.16 Authorities are required to develop their own methodology for carrying out EqIAs (reflecting the fact that they will be different depending on the organisation to which they apply).
- 1.17 Given that the PSED only came into force in early 2011, a number of organisations have yet to update their EqIA methodology to account for the larger range of protected characteristics. In those cases where this has happened, there may not be sufficient examples of the new EqIA “in action” to form a conclusion about their operation.
- 1.18 However, authorities have been carrying out EqIAs in some form for a significant length of time. Government departments, local authorities, PCTs, police authorities and a range of other bodies all have separate methodologies. Some have different methodologies for different services.
- 1.17 A number of organisations have developed a relatively light touch approach to EqIAs, focusing on the protected characteristics. “Checklists”

¹⁶ A bundle of views can be found at <https://bitly.com/bundles/timjhughes/2>

¹⁷ Originally proposed in “Best value: new draft statutory guidance” (DCLG, 2011); <http://www.communities.gov.uk/documents/localgovernment/pdf/1885419.pdf>

¹⁸ The duty was brought in through the Local Democracy, Economic Development and Construction Act 2009, but was not subject to a commencement order, and has since been repealed.

- are common¹⁹, to address the issue that some authorities have encountered of a lack of staff expertise to consider equality issues effectively. Of course, this raises the concern that EqlAs are being used as an adjunct to the policy development process, rather than as an integral part of it²⁰.
- 1.18 Other authorities have adopted a more expansive approach. The Greater London Authority, for example, has put in place detailed guidance for use by its employees²¹.
- 1.19 Whatever system is adopted, methodologies tend to have a number of common features:
- Some identification of the aims and objectives of the policy;
 - An assessment of the evidence available to make a judgment on the policy impacts, and any evidence gaps, including any evidence from consultation;
 - An assessment based on the above of the effects of the policy, answering the questions:
 - Who benefits?
 - Who doesn't benefit, and why not?
 - Who should be expected to benefit and why don't they?
- 1.20 The expectation is that these questions should be used as the basis for a narrative consideration of the impacts, which may incorporate other issues. It gives added credence to the view that a "checklist" approach may not be wholly appropriate.
- 1.21 The outcome - According to the EHRC, an EqlA can have one of four outcomes:
- Outcome 1:** No major change: the EqlA demonstrates the policy is robust and there is no potential for discrimination or adverse impact. All opportunities to promote equality have been taken.
- Outcome 2:** Adjust the policy: the EqlA identifies potential problems or missed opportunities. Adjust the policy to remove barriers or better promote equality.
- Outcome 3:** Continue the policy: the EqlA identifies the potential for adverse impact or missed opportunities to promote equality. Clearly set out the justifications for continuing with it. The justification should be included in the EqlA and must be in line with the duty to have due regard.

¹⁹ For example, Tendring DC - <http://www.tendringdc.gov.uk/NR/rdonlyres/F90BE936-F02E-45E8-8847-0B113C682F01/0/Landandpropertystrategy.pdf>

²⁰ Chaney and Ross (2004)

²¹ <http://www.london.gov.uk/eqiaguide/index.jsp>

For the most important relevant policies, compelling reasons will be needed.

Outcome 4: Stop and remove the policy: the policy shows actual or potential unlawful discrimination. It must be stopped and removed or changed²².

- 1.22 Outcome 4 requires an understanding of what would make a proposed course of action unlawful. These possible outcomes also demonstrate the conflation of positive and negative equality models, as discussed above.
- 1.23 A robust EqIA methodology will allow the authority to check that its decisions are being made in a logical way, and that no assumptions have been made about the impact on a certain section of the community. The policy may relate to one particular group of people, but the EqIA may throw up an unintended impact amongst some people with one or more of the protected characteristics. An EqIA allows a clear way to analyse these issues, and to produce a defined result at the end, with a system for amending the policy if that should be necessary. It is not an academic, desk-based exercise, but a dynamic one that draws on evidence from a wide range of sources. As we shall see, it should be considered as an integral part of the policy development process rather than as a bolt-on extra.
- 1.24 It is important to consider the broad policy impacts of decisions, rather than merely using EqIAs as a post-facto exercise in justification. Research has demonstrated that EqIAs have been considered as a retroactive, checking mechanism, driven by process, rather than as a tool to improve policy²³ (highlighting the points made earlier about the difference between positive and negative equality duties).
- 1.26 When it should be done – different organisations have adopted different approaches in deciding when an equality impact assessment should be carried out. The general consensus²⁴ supported by EHRC and Local Government Group guidance is that they should be carried out as part of any planned policy change. Some authorities have sought to make a distinction between those policies that will, and will not, have an impact on the public²⁵. However, even internal decisions which do not appear at first glance to have a direct impact on service users may well do so remotely. It is difficult to think of a policy change that a council could implement that would have no impact whatsoever on local people. Integrating EqIAs

²² “Equality impact assessments: quick start guide” (EHRC, 2010), http://www.equalityhumanrights.com/uploaded_files/PSD/equality_impact_assessment_guidance_quick-start_guide.pdf p4

²³ Chaney and Ross (2004)

²⁴ “Equality impact assessments: guidance” (EHRC, 2009), http://www.equalityhumanrights.com/uploaded_files/eiaguidance.pdf

²⁵ For example, Tendring DC and others.

within other assessment procedures – or within project planning itself – may provide a way to ensure that this can be done proportionally. We go on to talk about this in the next section.

Links to sustainability and other assessment methods - mainstreaming

- 1.27 Viewing EqlAs as a “standalone” assessment may not be the best approach, as we have noted earlier. Equally, it may not be wise to limit a discussion of equality to single services, issues, or organisations. The question lies in how properly to “mainstream” a consideration of equalities into other business – not only business of the council, but the business of a wider group of local partners as well.
- 1.28 Not a great deal of British research has been carried out on the incorporation of EqlAs into wider impact assessments (such as economic, social or environmental assessments). However, the research that has been carried out does demonstrate that value of such an approach in bringing equalities together with other long-term planning issues – especially in large projects²⁶. The benefits, and costs, of this approach will be considered in more depth in the next section.
- 1.29 There is a possibility that EqlAs could be rolled in to systems for project planning. Part of project planning involves considering impacts, risks and, to an extent, the long-term sustainability of the policy or project being proposed. Building equalities into this approach could provide a viable method of mainstreaming equality, and ensuring that it does not become a duplicating, reactive, ancillary assessment exercise for authorities.
- 1.30 Some research has suggested a “multi-strand” approach to mainstreaming, whereby “protected characteristics” are examined together, rather than individually, and as part of a wider discussion in the EqlA of more general equality impacts²⁷. Potential barriers to this more nuanced approach – which is highly qualitative in nature – relate to the skills of people carrying out EqlAs and, importantly, a lack of data on which to make judgments (as datasets, too, may not have been designed to tease out potential inequality issues)²⁸.
- 1.31 A number of public bodies have sought to establish a mainstreaming approach to dealing with equalities. The devolved administrations in the UK provide good examples, as they were established in the late 90s and early 00s, as the concept of mainstreaming equalities was first gaining

²⁶ Glasson and Wood (2009), focusing on urban regeneration projects. Of particular note is the case study on the incorporation of EqlAs in wider sustainability initiatives on the major Woodberry Down regeneration project in Hackney in 2006.

²⁷ Parken (2010)

²⁸ See also Walby (2005) on related points.

widespread currency – as such, an understanding of equalities could be built into their processes from the ground up. Systems in operation in London and Wales²⁹ (for example) may, therefore, be instructive.

- 1.32 It is, however, difficult to see from this research, and from practical experience, how the structural approach to EqlAs being suggested will lead to a broader consensus across the organisation of the importance of equalities to policy-making more generally – particularly in older organisations with an existing organisational culture which may tend to marginalise equality issues. This cultural challenge will be explored later, in the section on scrutiny’s involvement.

Why is this something in which scrutiny should be interested?

- 1.33 At national level, there have been a number of examples of decisions being overturned on the basis of an EqlA having been carried out ineffectively, or not considering the full issues³⁰. The Government’s plans around universal benefits have also been subject to the criticism that they will create “ghettoes”³¹. More broadly, public sector unions have suggested that the public sector equality duty may be used to challenge procurement decisions³².
- 1.34 We are not suggesting that scrutiny should take a combative approach, examining EqlAs and using them to attempt to “strike down” decisions, either as part of call-in or as a separate process. Scrutiny can, however, allow an authority and its partners to think more carefully about how they carry out EqlAs, and minimise the possibility that they will be inadequate (legally or otherwise). Enhancing the quality of EqlAs – whether through the promotion of mainstreaming or simply the encouragement, through scrutiny’s involvement, of a more robust and qualitative approach to these vital exercises – will enhance the quality of decision-making.
- 1.35 In particular, using equality impacts to analyse a proposed service change (as part of a “pre-scrutiny” process) immediately focuses on the results of that change, rather than the process used to reach it. By examining equality issues, scrutiny can also ensure that it focuses on results, rather than internal systems.

²⁹ “Mainstreaming equalities review” (National Assembly for Wales: 2004), also “Single equality scheme: consultation document” (Welsh Assembly Government: 2008)

³⁰ For example, changes to funding of voluntary groups in London - <http://www.bbc.co.uk/news/uk-politics-12402301>

³¹ See the Crisis response to the benefit proposals - <http://www.crisis.org.uk/data/files/publications/1010%2021st%20Century%20Welfare%20FINAL.pdf>

³² “The Public Sector Equality Duty: Interim Guidance for UNISON Branches” (2011), section 4

- 1.36 The approach to mainstreaming, above, suggests ways in which equality can be tied into project planning, and potentially into “pre-scrutiny” activities.

An example

- 1.37 Because it can be quite difficult to understand the connection between the practical implications of policy change and how they link with equality, we will briefly consider an example, both to highlight the issues we have examined and to act as an introduction to the next section, which will examine how scrutiny can use EqlAs in its own investigations.
- 1.38 The Department for Communities and Local Government are planning changes around neighbourhood planning (which we discuss in more detail in our policy briefing on the Localism Bill). As part of this process an EqlA has been prepared.
- 1.39 The EqlA follows the broad methodology described above – with some caveats. It examines aims only in general terms, in the context of the broader aims of the Localism Bill. It does not set out clearly the evidence base on which the policy objectives are founded.
- 1.40 It does seek to set out – in detail – some of the potential barriers which local people could face, but only with specific reference to the individual “protected characteristics”, and not in the context of wider socio-economic inequality or a consideration of how different issues interact with each other (see the section, above, on mainstreaming). The DCLG methodology for EqlAs may mean that wider barriers (such as, in this case, those identified by the Town and Country Planning Association³³) – may not be considered in sufficient depth.
- 1.41 The EqlA then goes on to identify the means adopted to resolve these potential barriers (again, reflecting the “negative equality” approach outlined above).

We will seek to ensure that best practice is adopted as appropriate in respect of the public availability of documents, the accessibility of premises, the publicity surrounding neighbourhood planning work and the availability of translations³⁴.

- 1.42 There is a question mark, though, over whether this, and other associated mitigation, adequately addresses some of the wider equality issues. Community disagreement, local authority unwillingness to engage with neighbourhood structures, the creation of “neighbourhood forums” which

³³ http://www.tcpa.org.uk/data/files/resources/1045/Lords_Localism-Bill-Briefing_June2011.pdf

³⁴ “Neighbourhood planning: equality impact assessments” (DCLG, 2011), section 2

could well lack accountability – the opportunity to address these issues has not been taken.

- 1.43 This brief analysis identifies how an EqlA can be used as a springboard for wider discussion – focused on the end-impact of a policy change, and framed in a way that emphasises the need for that policy change to be an effective one. It demonstrates how scrutiny can use this information to exert real change, at the time a decision is being made, or before. The next section will explore the precise ways in which scrutiny functions can go about doing this.

2. How scrutiny can use EqlAs in an investigation

Has the council's / the partner's methodology been properly adhered to?

- 2.1 This is a minimal, basic test about the internal efficacy of the EqlA system within the council and its departments, or within its partners. Councils with a defined methodology for EqlAs can have their processes effectively “audited” by scrutiny, which could have an oversight role.
- 2.2 Scrutiny committees wishing to take this approach could request a quarterly, out-of-committee update on all EqlAs being developed, ensuring that milestones for production were being hit and that the right people were being involved in their preparation at the right stage. EqlA processes causing particular concern – missed deadlines, incomplete or inaccurate assessments, for example – could be considered in more detail at committee. At the moment, CfPS is not aware of any authorities that have adopted this approach.
- 2.3 This approach is more similar to audit. It is quite likely that council officers will carry out this analysis themselves as part of ongoing project management systems, but attention from scrutiny might serve both to highlight recurring, cross-cutting issues with methodologies, instances where EqlAs are being carried out at the wrong time or in the wrong way.
- 2.4 In reality, carrying out reviews of EqlAs in this way may lead naturally to the approach outlined in sections 2.6 onwards. .
- 2.5 An approach was agreed in May 2011 in **Gloucestershire** whereby equality impact assessments (renamed “community impact assessments”) are now sent to O&S committees before being signed off by the relevant cabinet member, the intention being that this provides a way of building “pre-scrutiny” into the process³⁵ and to provide additional political

³⁵ <http://glostext.gloucestershire.gov.uk/ieListDocuments.aspx?CId=264&MId=7102> – see minute 33

leadership. This suggests a new and more focused approach to “pre-scrutiny” more generally, where a discussion of methodology is mixed with a broader, substantive discussion on the policy.

Has the EqlA accurately reflected any issues around equality – and does the proposed outcome and response deal with any issues that have arisen?

- 2.6 This takes a more substantive approach, involving an assessment of the pros and cons of a given policy rather than merely whether the EqlA methodology has been followed. It could also be used to highlight flaws within the council’s EqlA methodology itself.
- 2.7 Here, scrutiny would be looking at the judgments sitting behind an EqlA, rather than the mere fact that the form of the assessment had been carried out successfully. Questions could be asked such as:
- Have wider social and economic equality issues been considered?
 - Has the EqlA taken a measured (and transparent) approach to risk?
 - How have equality risks been assessed?
- 2.8 There is an argument that scrutiny’s involvement in policy development could be pegged to the EqlA process – especially if EqlAs are carried out as part of a broader “sustainability assessment”, as discussed in the earlier section on mainstreaming. The EqlAs for certain large projects or strategies could incorporate evidence from scrutiny as part of their methodology.
- 2.9 Authorities such as **Northampton** have incorporated a consideration of EqlAs into scrutiny reviews³⁶. This constitutes another approach, but the pros and cons need to be carefully considered. In some instances, EqlAs (which are designed for the most part to deal with specific plans and programmes) may be out of date, or may not conform precisely to a scrutiny review’s terms of reference.
- 2.10 **Cheshire West and Chester** has also examined the role that scrutiny members can play in evaluating EqlAs, and has put steps in place – including training for members – to ensure that scrutiny can effectively

³⁶

http://www.northampton.gov.uk/site/scripts/documents_info.php?documentID=464&pageNumber=11

consider equality issues as part of the discussion of policy development proposals³⁷.

Is the council's general approach to equality robust?

- 2.11 This is more fundamental, more difficult, but arguably the most valuable approach. It looks at the heart of the organisation's attitude towards equality – at its effectiveness at mainstreaming the equality agenda.
- 2.12 Work on this issue would probably take the form of a task and finish scrutiny review, that would examine EqlAs as case studies, as part of a wider consideration of the subject.
- 2.13 Work the Centre for Public Scrutiny has carried out in its Health Inequalities Programme investigates some of these broader issues³⁸. Here, scrutiny has engaged not directly with the EqlA process, but with a broad issue that highlighted an inequality, trying to develop techniques to overcome it. This demonstrates the value of “building in” an understanding of equality to the wider processes of policy development.
- 2.14 The Equality Framework for Local Government – the EFLG is an evolution of the former Equality Standard for Local Government, which dates back to 2001. In its current form, the EFLG provides a toolkit allowing authorities to explore and improve how they respond to, and act on, equality issues³⁹. The framework involves the assessment of the authority and its categorisation in one of three bands – developing, achieving or excellent.
- 2.15 The EFLG strongly promotes the use of scrutiny in establishing a culturally different approach to equality. Councillor engagement is particularly encouraged as part of this process. Where councils are using the framework to enhance their work – or even where they aren't – the prominence of scrutiny in the EFLG demonstrates that it can play an important role in pushing this cultural approach forward.
- 2.16 Partnership work - Scrutiny could use its cross-cutting strengths to examine any divergence between the way the council approaches equality, and the wider partnership's approach. Differences in approach amongst different partners could significantly hinder developments. The methodology adopted for EqlAs must, by necessity, differ by area – but the culture and ethos underlying it must not. Scrutiny could help to

³⁷ Annual Report 2010/11 – accessible via link at http://cheshirewestandchester.gov.uk/democracy_and_elections/councillors_and_committees/scrutiny_committee/201011.aspx?removelink=yes

³⁸ “Peeling the Onion” (CfPS: 2011)

³⁹ <http://www.idea.gov.uk/idk/core/page.do?pagelid=9491107>

rationalise some of these issues, developing a more consistent collective understanding of challenges and their solutions. This is something that was partially addressed in the Total Place programme⁴⁰.

2.17 Limitations - The limitations of this approach should, however, be acknowledged. A “scrutiny review of equalities” risks reinforcing the notion that equality is a tacked-on extra, rather than an integrated part of the process. Scrutiny might wish to conduct a wider review of sustainability, incorporating equality as an important element (as we discussed earlier on mainstreaming). It may be sufficient to ensure that equality issues are highlighted as part and parcel of scrutiny’s standard work programme – this may, in fact, achieve better results. However, there may be some value in carrying out a focused review, if only to highlight the need, across departmental and organisational boundaries, for equalities to be centre stage.

3. How scrutiny can use EqlAs in its own work

3.1 Scrutiny also has a duty to consider equalities in the work that it does. Scrutiny reviews involve gathering evidence from the public, and carrying out investigations that will have an impact on the ground. Inevitably, this will involve a consideration of the way in which those recommendations will impact upon different local residents. An awareness of equalities issues in the planning, delivering and monitoring of scrutiny reviews will, arguably, enhance their robustness and ensure that recommendations have a greater chance of being implemented. They can also serve to enhance organisational understanding of equalities issues (connecting back to the points made above on mainstreaming).

3.2 Some authorities have sought to integrate EqlAs into the scrutiny process (as we have seen above). It is much less common to see scrutiny review recommendations themselves subject to an EqlA.

3.3 A way to integrate this effectively into scrutiny work could be to build an awareness of equalities into both work programming and the scoping of individual reviews. Annual reports could address how scrutiny has been able to involve as wide a range of people as possible into both the planning of work, and its delivery. It could provide an effective way to enhance scrutiny’s visibility to the wider public.

⁴⁰ See our publication, “Between a rock and a hard place” (2010), <http://www.cfps.org.uk/publications?item=99&offset=0>

Further reading

CfPS documents

“Between a rock and a hard place” (CfPS, 2010)

“Accountability Works” (CfPS, 2010)

“Equal to the task” (CfPS, 2007)

Other documents and articles

Feldman S, *Discrimination Law* (OUP: 2002)

Gaffikin and Morrissey, “Community Cohesion and Social Inclusion : Unravelling a Complex Relationship” (2009) *Urban Studies* 48(6) 1089

Glasson and Wood, “Urban regeneration and impact assessment for social sustainability” (2009) *Impact Assessment and Project Appraisal* 27(4) 283

Kelly, “Some useful sources on equality and inequality” (2007) *Social Policy and Society* 6(1) 123

McLaughlin, “From negative to positive equality duties: the development and constitutionalisation of equality provisions in the UK” (2007) *Social Policy and Society* 6(1) 111

Mindell et al, “Health impact assessment as an agent of policy change: improving the health impacts of the mayor of London’s draft transport strategy” (2004) *J Epidemiol Community Health* 58, 169

Parken, “A multi-strand approach to promoting equalities and human rights in policy-making” (2009) *Policy and Politics* 38(1) 79

National Assembly of Wales, “Mainstreaming Equality in the Work of the National Assembly” (2004)

Town and Country Planning Association, “Policy analysis of housing and planning reform” (March 2011)

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New legislative framework - update



Policy Briefing 14

December 2011

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This briefing, the fourteenth in the Policy Briefing series, examines the provisions of the Police Reform and Social Responsibility Act, the Localism Act and the Health and Social Care Bill (expected to receive Royal Assent in Spring 2012), and draws conclusions from the new legislation about the future of scrutiny.

This briefing is complemented by the forthcoming revision to our comprehensive guide to scrutiny legislation, "Pulling it together", which will be published in the early spring (to coincide with the commencement date for much of the content of this briefing, in early April), and by other briefings that explore the implications of legislation in more detail and which are referenced throughout this document.

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1. Introduction and background
2. Localism Act
3. Police Reform and Social Responsibility Act
4. Health and Social Care Act / Bill
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1. Introduction and background

- 1.1 The Localism Act¹, Police Reform and Social Responsibility Act² and Health and Social Care Bill³ arguably form the bedrock of the Government's legislative programme for the first half of the 2010-14 parliamentary term. Significant structural reform in the NHS, in policing and in the powers and responsibilities of local government will mean big changes to formal accountability, and to the way that ordinary citizens interact with the state.

¹ 2011 ch 20: <http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>

² 2011 ch 13: <http://www.legislation.gov.uk/ukpga/2011/13/contents/enacted>

³ At the time of writing (late November 2011), at committee stage in the House of Lords: <http://services.parliament.uk/bills/2010-11/healthandsocialcare.html>

- 1.2 The new legislation has community power at its heart⁴ – exerted either at neighbourhood level (for example, the planning powers in the Localism Act) or by individual citizens, now empowered as “consumers” able to exercise control through choice⁵, made possible through increased transparency (as posited by all three reform packages⁶, and the education reforms covered separately in Policy Briefing 13⁷).
- 1.3 This will have an impact on existing accountability mechanisms, and particularly on overview and scrutiny. It is a truism to say that with change of this nature comes both opportunities and challenges, but those opportunities are there for the taking by effective, focused scrutiny functions. This will be possible in authority areas where scrutiny is able to find, and capitalise upon, a new and perhaps expanded niche in these new structural arrangements, that increases its profile by linking more directly to local people’s concerns.

Background to the legislation

- 1.4 Localism Act – the Localism Act was introduced as a Bill in December 2010, after a relatively long gestation. Many of the ideas in the Bill were long-standing Conservative party policy, brought together and fleshed out by the pre-election Green Paper, “Control Shift”, published by the Conservatives in early 2009⁸.
- 1.5 The Bill made slow progress through the Commons. Much was made of its length and of the large number of powers reserved for use by the Secretary of State⁹. A number of amendments were made before the Bill received Royal Assent in November 2011 – many of them relating to local democracy, but some pertaining to planning and housing. Most changes were introduced following report stage in the Lords, reflecting the subject of significant disagreement between the parties at committee stage in the Commons – issues about local referendums in

⁴ See “The Coalition: our programme for government” (2010), foreword, p7: “In short, it is our ambition to distribute power and opportunity to people rather than hoarding authority within government. That way, we can build the free, fair and responsible society we want to see.” (http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/@en/documents/digitalasset/dg_187876.pdf)

⁵ For example, through personalisation in the provision of health and social care services, through the provision of “free schools” and additional marketisation of the further and higher education sectors (see Policy Briefing 13), and so on.

⁶ Both Acts, and the Bill, conflate accountability and transparency.

⁷ <http://www.cfps.org.uk/publications?item=7009>

⁸ Conservative Party Policy Green Paper No. 9: http://www.conservatives.com/News/News_stories/2009/02/Its_time_to_transfer_power_from_the_central_state_to_local_people.aspx

⁹ “Essential guide to decentralisation and the Localism Bill” (LGA, 2010), mentions that at the time of introduction 142 powers to make regulations had been reserved - <http://www.lga.gov.uk/lga/aio/16742200>

particular¹⁰. The Bill received Royal Assent in mid-November 2011 and the scrutiny elements are expected to formally commence in April 2012.

- 1.6 Police Reform and Social Responsibility Act – it had been Conservative and Liberal Democrat policy before the General Election to introduce a directly elected element to policing governance¹¹. The view was the police authorities were ineffective and had too low a profile¹², meaning that police forces were essentially seen as unaccountable. The introduction of directly-elected police commissioners became a prominent part of the coalition agreement and the subsequent plan for government¹³.
- 1.7 Notwithstanding this apparent agreement early on in the process, the Bill was beset by problems as it progressed through Parliament. Notably, Lib Dem peers in the Lords managed to amend the Bill to remove a single directly elected police commissioner, replacing them with a directly-elected body made up of a number of people (essentially a directly-elected, decision-making police and crime panel, which bore more than some similarities to police authorities)¹⁴. In order to overturn this amendment the Government had to make a number of concessions – notably, over the powers of the police and crime panel, whose role in holding the police and crime commissioner to account had previously been seen by some commentators as too weak¹⁵.
- 1.8 The Bill received Royal Assent in October 2011, earlier than expected¹⁶. However, the plans for commissioner elections, previously scheduled for May 2012, have been delayed by six months. Even with this delay, a number of those in the sector have raised concerns over the length of time, and resourcing, necessary to make the transition to the new arrangements¹⁷. It should be noted in this context that the Home Office are planning the introduction of secondary legislation to

¹⁰ These were challenged (with the relevant sections being removed from the Bill) on the fact that they would involve significant cost to local authorities, and that in any case the results would be non-binding.

¹¹ Conservative and Liberal Democrat Manifestos, 2010

¹² A view expressed in particular in the aftermath of the summer riots on 2010. The APA response to the Home Secretary's criticisms can be found at http://www.norfolk-pa.gov.uk/user_files/article/APA%20to%20Rt%20Hon%20Theresa%20May%20MP%20170811.pdf

¹³ "The Coalition: our programme for government", p13

¹⁴ Full details at <http://www.parliament.uk/business/news/2011/september/police-reform-and-social-responsibility-bill-lords-amendments/>

¹⁵ Principal among the amendments was the reduction in the threshold for the operation of the "veto" from three-quarters to two-thirds of the PCP's membership.

¹⁶ Home Office Structural Reform Plan (July 2010), <http://www.homeoffice.gov.uk/publications/about-us/corporate-publications/structural-reform-plan/pdf-version?view=Binary>

¹⁷ The Electoral Commission have expressed concerns about low turnout and high cost if elections are run in November 2012 – the APA have suggested a further delay, to May 2013 or beyond, to enable the transition process to work more smoothly.

deal with a number of ancillary issues, which will have an effect on the commissioner and his/her relationship with the panel¹⁸.

- 1.9 Health and Social Care Bill – the health reforms are the ones that, while they had the shortest gestation in policy terms post the formation of the Coalition Government, are taking longest to progress through Parliament.
- 1.10 Introduced shortly following the General Election, following the initial publication of a White Paper¹⁹, the Bill quickly became in the focus for arguments about the realities of GP commissioning (through which control of NHS spending would be vested almost entirely in the hands of GPs). Concern was expressed that the proposals to relocate public health in local government, replace Strategic Health Authorities and Primary Care Trusts with GP commissioning and an NHS Commissioning Board were too radical, and had not been subject to adequate research and consideration beforehand. Added to this was opposition based on the fact that this kind of structural reform in the health service had not been mentioned in the manifesto of either coalition party, nor was it present in the coalition agreement. There were also concerns expressed about the lack of obvious checks and balances in the new architecture.
- 1.11 For scrutineers, the most concerning element was the proposal in the Health Reform White Paper to transfer of the statutory health scrutiny powers to new Health and Wellbeing Boards, which would be executive bodies with decision-making responsibilities around joint needs assessments and joint health and wellbeing strategies. It was felt that these proposals represented a clear conflict of interest between decision-making and scrutiny responsibilities on “substantial variations” to health services²⁰. After listening to the views of a range of stakeholders, the Government decided to retain a separate health scrutiny function.
- 1.12 The Government temporarily withdrew the legislation, tasking the NHS Future Forum to carry out a review into the plans and make suggestions for changes. This not only significantly delayed the legislation, and the proposed introduction of the changes²¹, but also resulted in some substantive alterations. .

¹⁸ Home Office Plan of Secondary Legislation (October 2011), <http://www.homeoffice.gov.uk/publications/about-us/legislation/secondary-legislation?view=Binary>

¹⁹ “Equity and excellence: liberating the NHS” (DH, July 2010), http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_117353

²⁰ Powers originally given by sections 7 and 11 of the Health and Social Care Act 2001.

²¹ It had initially been planned that new commissioning arrangements would be introduced from 2013, across the country – now, the plan is to introduce them during 2013/14, at a speed to be defined more by local circumstances.

- 1.13 Now, new clinical commissioning groups (bodies involving GPs, together with other health professionals and lay people) will be introduced, with the bulk of the changes happening in 2013/14. Local accountability arrangements will also be strengthened, with scrutiny retaining its powers and Local HealthWatch, the successor body to LINKs, having a more clearly defined role.

2. Localism Act

- 2.1 We discussed the main provisions of the Localism Act, when it was introduced into Parliament, in Policy Briefing 7, published in December 2010²². Since then, a number of amendments have been made. This briefing focuses on scrutiny and governance issues rather than the community rights to challenge and to “buy”, and associated changes to planning, which are covered in the previous Policy Briefing. .
- 2.2 The Act contains provisions on a wide range of services delivered by local authorities, or in which councils might have an interest. Licensing, planning, housing and governance are all covered. The broad policy intention behind the Act is to devolve power over a range of services to local people and local communities (although some dispute that there is any clear vision behind the legislation at all)²³.

Powers for scrutiny

- 2.1 The Act will see increased powers for local government scrutiny functions in a number of key areas.
- 2.2 Powers over partners – as it stands, the Local Government and Public Involvement in Health Act 2007, and the Local Democracy, Economic Development and Construction Act 2009, between them give general powers to O&S to look at the work of partners – so long as that work relates to a local improvement target under the Local Area Agreement.
- 2.3 The Localism Bill retained the link to Local Area Agreements and local improvement targets. It was known that these were being abolished and consequently it was planned that, at some point in the Bill’s progress, a new form of words would be substituted. It was, however, not known how expansive this form of words would be.
- 2.4 In the Act, the relevant section has been changed to encompass any activities carried out by a named partner (the list is at s104 of the 2007 Act). This could (and will) include services funded not by the local council, but from other funds. This important change makes it clearer that ever that scrutiny’s future lies in a view of public services as they are delivered across a given locality – not just those for which the council has a direct responsibility. CfPS’s recent work on health

²² <http://www.cfps.org.uk/publications?item=104&offset=0>

²³ “Plain English guide to the Localism Act” (DCLG, November 2011), <http://www.communities.gov.uk/documents/localgovernment/pdf/1896534.pdf>

inequalities, summarised in “Peeling the Onion”, explores this potential in more detail²⁴.

- 2.5 The Government plans²⁵ to lay in Parliament regulations that will replace the regulations issued pursuant to the Local Democracy, Economic Development and Construction Act 2009, relating to information requirements²⁶. Those regulations referred extensively to LAAs and local improvement targets and will need to be altered to reflect the position described above.
- 2.6 These powers should also be seen in the context of the “general power of competence”. Local authorities generally will have far wider powers to influence policy and public service delivery in their area²⁷. As a function of the council, scrutiny can use these powers to investigate issues beyond its traditional remit, but which nonetheless affect local people. The lack of formal powers for scrutiny to explicitly carry out a particular review, or to work in a certain way, cannot be used by a recalcitrant executive who would prefer that scrutiny stays within a limited and unchallenging “box”²⁸.
- 2.7 Increased powers for districts – under existing legislation, the scrutiny functions of district councils have been circumscribed in the way that they can engage with local partners. The Localism Act will expand the existing partnership powers (explained above) to districts in two tier areas. Districts will also be able (but not required) to designate a “statutory scrutiny officer”.
- 2.8 Changes to the Councillor Call for Action – the Act also amends the provisions relating to the Councillor Call for Action²⁹. The reference to “local government matters” has been removed, providing the opportunity for councillors to bring CCfAs on issues that relate to partnership business (so long as that business is within the scope of a committee’s terms of reference). The existing statutory guidance relating to CCfA remains in force.
- 2.9 Putative future changes – DCLG have advised³⁰ that they may consider, in the near future, a change to the “list of partners” under section 104 of the Local Government and Public Involvement in Health Act 2007. In CfPS’s view, this would involve either an expansion in the current list of partners to bring in more organisations over which

²⁴ <http://www.cfps.org.uk/tackling-health-inequalities>

²⁵ Information given to the National Overview and Scrutiny Forum, 2 November 2011

²⁶ Local Authorities (Overview and Scrutiny Committees) (England) Regulations 2009 (SI 2009/1919)

²⁷ “Localism Bill: General power of competence – impact assessment” (DCLG, 2011), <http://www.communities.gov.uk/publications/localgovernment/localismcompetence>

²⁸ See section 5 below on “resistance from partners/executive”

²⁹ Originally brought in via s119 of the Local Government and Public Involvement in Health Act 2007, and subject to statutory guidance produced on behalf of DCLG by CfPS in March 2009.

³⁰ Minutes of the National Overview and Scrutiny Forum, 2 November 2011

scrutiny currently has no formal powers – for example, the Highways Agency – or the replacement of the list with a “class” of organisation over which scrutiny would have some powers. CfPS has previously suggested a description such as, “any organisation in receipt of public funds delivering services to the local community”.

Governance changes

- 2.10 Councils will have the option to change governance arrangements, moving to a committee-based model of governance, or to a directly-elected executive mayoral model.
- 2.11 Elected mayors - The 12 “core cities” in England are holding confirmatory referendums on the establishment of a directly elected Mayor. The Government is currently (December 2011) consulting on the powers for directly elected mayors, through the document, “What can a mayor do for your city?”³¹. The consultation makes clear that the Government wishes the core cities to approach the Government with their own ideas of what powers will be given to Mayors. However, given amendments made to the Localism Bill/Act in September 2011, which make Mayoral powers available to other authorities, it seems difficult to consider that a decision to adopt this form of governance will be taken because different powers will be provided³². It seems more likely that – as has been suggested by a number of commentators³³ - the Mayor’s role will be a “strategic” one (reflected in the offer made in December 2011 to city regions on these wider strategic issues³⁴). This mirrors, in many ways, the strategic, partnership-building role of the Police and Crime Commissioner (see below) – both will have a responsibility to go out and forge positive relationships outside the authority, with the leaders of other councils and partners across the conurbation. The CfPS response to the mayoral powers consultation³⁵ makes clear that stronger partnership powers for O&S should go alongside a partnership-focused Mayor – equally, we and others have noted the particular importance, in Mayoral authorities of dedicated officer support for scrutiny³⁶.
- 2.12 It has been confirmed³⁷ that elected Mayors will be able concurrently to hold the post of Police and Crime Commissioner, although this appears

³¹ <http://www.communities.gov.uk/publications/localgovernment/mayorsconsultation>

³² See comment on this issue at <http://www.birmingham.ac.uk/schools/government-society/departments/local-government-studies/news/2011/11/elected-mayors.aspx>

³³ See publications by the Institute for Government, NLGN and the Core Cities Group. In particular, see Sims, “Making the Most of Mayors” (Institute for Government, 2011), <http://www.instituteforgovernment.org.uk/publications/40/making-the-most-of-mayors>

³⁴ LGC, 7 December 2011 (£) - <http://www.lgcplus.com/topics/economic-development/exclusive-ministers-set-out-new-offer-to-cities/5038931.article>

³⁵ INSERT REF

³⁶ As noted by Andrew Adonis, Director of the Institute for Government, in a letter to Eric Pickles, <http://www.instituteforgovernment.org.uk/publications/39/mayors-and-the-localism-bill>

³⁷ LGC, 22 November 2011 (£) - <http://www.lgcplus.com/policy-and-politics/official-mayors-can-stand-as-police-commissioners/5038233.article>

to be at odds with the guaranteed place on the PCP available for Mayors, and would create a conflict of interest between authority-specific, and Force-wide, priorities.

- 2.13 Committee system – CfPS’s Policy Briefing 4 goes into more detail on the committee system; a forthcoming publication will examine the practical issues in more detail.
- 2.14 The Act makes provision for authorities to either adopt a committee system of governance, or any other form of governance prescribed by the Secretary of State. Authorities choosing to adopt a committee system must first agree a resolution to his effect at Full Council, with the change itself happening following the subsequent Full Council AGM.
- 2.15 This is a change from earlier iterations of the Bill, which required the date of transition to different governance arrangements to be pegged to the date of ordinary elections. This would have meant that only 109 councils would have been able to change their arrangements in 2012³⁸ – others would have had to wait until 2013, 14 or 15. As it stands now, all English councils can opt to change in May 2012.
- 2.16 Councils can operate overview and scrutiny under a committee system. CfPS believes that, for most authorities who choose to change their arrangements, a “streamlined” or “hybrid” committee system, incorporating both subject committees and O&S, is the most likely outcome (on the basis of anecdotal information which we are collecting to support further research on this issue, to be published in February 2012)³⁹. This will allow committee system councils to exercise the scrutiny powers around healthcare, social care and health improvement, crime and disorder and external partners, as well as providing some independent challenge to decisions made by these committees.
- 2.17 DCLG plans to lay in Parliament regulations defining the operation of O&S in committee system authorities shortly. CfPS expects that these will be, for all intents and purposes, identical to the provisions on O&S for “leader and cabinet” authorities.

Tenant scrutiny

- 2.18 The Government is bringing in, through the Act, a more central role for the existing tenant scrutiny arrangements in social housing. The previous model of “co-regulation” is being extended as central government regulation is scaled back and more challenge to landlords at local level by tenants themselves replaces it⁴⁰. The Act will move

³⁸ “Impact assessment: governance arrangements” (DCLG, December 2010)

³⁹ As posited in Policy Briefing 4 (see above).

⁴⁰ <http://www.tenantservicesauthority.org/server/show/nav.14727>

two principal consumer protection responsibilities from regulators to tenant scrutiny, namely:

- Proactively monitoring landlords' compliance with service standards;
- Scrutinising landlord performance and driving service improvement generally.

2.19 A role around complaints is also envisaged for tenant panels, but they may choose not to exercise it.

2.20 Systems and arrangements will be built on existing practice – namely, the existing “Involvement and Empowerment Standard”⁴¹ developed and promoted by the TSA, which is currently consulting on a new Standard⁴². There is a clear steer from DCLG⁴³ and other national bodies that landlords will be expected to support tenant scrutiny panels or other arrangements, as a part of the co-regulatory environment. Earlier research on tenant scrutiny does provide numerous examples of good working relationships having been built up⁴⁴, but O&S may wish to explore how well arrangements are developing in their local area, both in relation to the council's own housing stock (either directly managed or by an Arms Length Management Organisation) and in relation to any social housing landlords with housing locally. Some areas, for example, are developing cross-landlord scrutiny arrangements across the area, and local authorities, with their continuing strategic housing responsibilities, may wish to take an interest in how effective local tenant scrutiny arrangements are.

2.21 Increasing powers and a stronger regulatory role for tenant scrutiny also suggests that local government O&S should seek to integrate its work more with these panels (or other local tenant scrutiny arrangements) – particularly given the importance of housing policy to a range of issues which will be of interest to local councillors. CfPS is carrying out research on this area, with a view to publishing a report and practical guide for tenants in early 2012. We believe that tenant scrutiny will play a valuable and complementary role alongside any scrutiny of housing carried out by council overview and scrutiny committees – tenants have day-to-day experience of living in their homes and bring a unique perspective. The National Tenant Organisations are also expected to produce a report on tenant panels in early 2012 which will provide further guidance and examples of current practice.

⁴¹ <http://www.tenantservicesauthority.org/server/show/ConWebDoc.19976>

⁴² <http://www.tenantservicesauthority.org/server/show/nav.15065>

⁴³ “Review of social housing regulation” (DCLG, 2010), <http://www.communities.gov.uk/documents/housing/pdf/1742903.pdf>

⁴⁴ “Local offer trailblazers – from planning to practice” (TSA, 2011), http://www.tenantservicesauthority.org/upload/pdf/Local_Offer_Trailblazer_Report_July_2011.pdf

Neighbourhood planning and “community right to challenge”

- 2.22 The Act will allow local people to directly influence policy, and the delivery of services, in neighbourhoods in two principal ways – through neighbourhood planning (the production by local people of planning documents which, as long as they complement the Core Strategy of the LDF, will be adopted by the Council as a Development Plan Document) and the “community right to challenge”, the system by which local people can challenge the delivery of a service by a certain provider, with a view to a procurement exercise for the delivery of that service being opened up. There have not been any substantive amendments or clarifications on these powers since the introduction of the Bill, and they are covered in more detail in Policy Briefing 7.

Referendums

- 2.23 The expansive referendum provisions in the Bill, as introduced, have been removed following lobbying by the LGA. Referendums will still need to be held on certain council tax increases.

3. Police Reform and Social Responsibility Act

- 3.1 We discussed the proposals in this Act, as they were introduced, in Police Briefing 8, published earlier in 2011⁴⁵. Unofficial guidance, drafted by CfPS and published in partnership with the Local Government Association, goes into more detail on the operation of police and crime panels⁴⁶.
- 3.2 The Act abolishes police authorities and replaces them with an elected Police and Crime Commissioner (PCC). The Commissioner will be responsible for holding the Chief Constable in the Force area to account. The PCC is perceived as having a more high profile and responsive role in relation to the public. Innovations such as crime mapping, and mandated neighbourhood meetings, along with direct elections, are designed to make the PCC more accountable.

Powers and responsibilities of the PCC

- 3.3 The PCC will have wide-ranging powers and responsibilities. On consultation and engagement, he or she will have a duty to consult local people – including victims of crime⁴⁷. There is a statutory requirement for the PCC to work in partnership with a range of other local agencies⁴⁸.

⁴⁵ <http://www.cfps.org.uk/publications?item=104&offset=0>

⁴⁶ <http://www.cfps.org.uk/publications?item=7002&offset=175>

⁴⁷ Section 14 (arrangements for obtaining the views of the community on policing)

⁴⁸ Section 10 (co-operative working)

- 3.4 The PCC will have sole responsibility for disbursing community safety funding from the Home Office⁴⁹ (currently provided through a range of funding streams to local authorities, police and community safety partnerships), and will also have responsibility for a range of other budgets. The PCC will be able to direct this funding where he or she wishes, in the form of grants, either to Community Safety Partnerships or other bodies.
- 3.5 The PCC will also have wider powers over criminal justice, in partnership with criminal justice bodies, under section 10(3). The precise scope of this work is as yet unclear and may be subject to more detailed discussions at local level.

The relationship with CSPs

- 3.6 The relationship between the PCC and Community Safety Partnerships (CSPs) – and, consequently, with CSP O&S – is potentially complicated.
- 3.7 As noted above, the PCC will have sole responsibilities for making grants of cash on community safety issues. There is consequently a funding accountability relationship between the PCC and those CSPs in receipt of this money. This is backed up by a formal power for the PCC to call CSP chairs to meetings to discuss Force-wide issues⁵⁰. This could be seen as a way for the PCC to enforce control over chairs for the spending of money.
- 3.8 This will see community safety moving to a more commissioning-led approach, depending on the ambition of the individual PCC. Ringfencing seems likely to be removed⁵¹. With this widespread power, the PCC may choose innovative business models for the delivery of certain services – involving the third or private sector in certain areas. Whatever happens, it seems likely that contract management will take a more central role in the delivery of community safety priorities. It may result in mergers of some CSPs⁵², the adoption of shared services between some partners, potential TUPE issues for community safety staff, and a renewed focus on “value for money” – as well as more data transparency.
- 3.9 These powers should be seen in the context of the remaining CSP scrutiny powers for local government, as well as the likely role of the PCP in scrutinising the PCC’s commissioning activities. The CSP scrutiny powers will not be amended but it is clear to see that the wider

⁴⁹ Sections 21 – 27 (financial matters)

⁵⁰ Schedule 11

⁵¹ “Police and crime commissioners: a guide for councillors” (LGA, 2011), http://www.local.gov.uk/c/document_library/get_file?uuid=30614eb6-7cad-4d50-af52-33b7158b0c73&groupId=10161

⁵² While the PCC will not be in a position to “force” CSP mergers, he or she will be able to approve such mergers.

accountability arrangements in play will have a profound impact on the way that CSPs operate. We will explore this tension in more detail in section 5.

The Police and Crime Panel⁵³

- 3.10 The Commissioner will him/herself be held to account by a Police and Crime Panel, a body made up of local councillors from all authorities in the Force area⁵⁴.
- 3.11 The Police and Crime Panel will be a joint committee⁵⁵ of all the authorities in the Force area and must be politically and geographically balanced⁵⁶, as far as possible – as well as incorporating in its members the key skills necessary to deliver the PCP’s functions.
- 3.12 A lead authority will need to be assigned to co-ordinate arrangements between the authorities involved. The CfPS/LGA guidance suggests the establishment of a “shadow PCP” to consider the role, responsibilities and composition of the final Panel⁵⁷.
- 3.13 The role of the Panel will need to be considered first. The Panel is a scrutiny body. Under the Act the PCP has certain “special functions”⁵⁸ – including considering the PCC’s Police and Crime Plan, reviewing the planned police precept and reviewing certain senior appointments. The PCP will also have formal duties around dealing with certain complaints against the PCC (to be exercised as a last resort⁵⁹).
- 3.14 Beyond these statutory powers there is a hinterland of other work in which the PCP could engage. From anecdotal evidence, CfPS understands that many areas are planning a “compliance” approach – mainly for resource reasons. CfPS’s view is that the PCP will find it difficult to transact its statutory functions – particularly scrutiny of the Police and Crime Plan – without carrying out scrutiny-style investigations into issues of local concern. The “set piece” scrutiny outlined in the “special functions” will, for its success, need to rely on a wider – but not overwhelmingly detailed – body of evidence from more detailed scrutiny investigations, in order to be meaningful⁶⁰.
- 3.15 This could well involve the PCP drawing evidence from community safety O&S functions in the Force area, and drawing on feedback from neighbourhood beat meetings, to inform its scrutiny work.

⁵³ Detailed technical information on the PCP can be found in the joint CfPS/LGA guidance on the subject.

⁵⁴ Ibid, 6.1

⁵⁵ Ibid, 5.2

⁵⁶ Ibid, 7.3 onwards

⁵⁷ Ibid, section 8

⁵⁸ Ibid, 5.21

⁵⁹ Ibid, 3.16 – 3.18

⁶⁰ Ibid, 5.14 – 5.19

- 3.16 The composition of the Panel will need to be considered after the role. It is for authorities in the area to decide how the Panel should be composed, subject to the principles mentioned above on “balanced representation”. CfPS has strongly recommended, for reasons set out in detail in the CfPS/LGA guidance, that the Panel should be made up of non-executive members⁶¹.
- 3.17 Although there is a guaranteed place for an executive mayor on the Panel, the mayor has the power to delegate this if he or she wishes. The prospect of this occurring, and a non-executive member from the relevant authority attending in the mayor’s place, should not be discounted as unrealistic. Indeed, in the only example of a directly elected mayor being given the express statutory power to direct policing policy (the powers given to the Mayor of London in 2008 to chair the Metropolitan Police Authority), those powers were delegated by Boris Johnson to Kit Malthouse as a Mayoral appointee.

Subsequent regulations and guidance, and “transition”

- 3.18 The Home Office is planning the publication of regulations relating to Police and Crime Panels and is likely to produce its own guidance in the New Year⁶². Regulations are definitely expected on complaints (a draft set have already been published⁶³) and on the operation of confirmation hearings.
- 3.19 Guidance will contain more detail on the expected timescale of the lead up to the new structural arrangements coming into force later in the year. At the moment it seems most likely that the Home Office will require councils to agree on “who leads” on PCP arrangements by April 2012, with arrangements having been established in shadow form by July 2012 at least. This timescale is of course subject to change and has not been confirmed by the Home Office.
- 3.20 On police reform more generally, Leaders and Chief Executives of local authorities, and senior officers in police authorities, expect a range of guidance on wider issues over the coming months⁶⁴. The chief uncertainty in preparation lies in who the PCC will be. It will be reasonably easy to establish new structural and support arrangements in individual Force areas, but ultimately the PCC may decide that he or she wishes to change these. As such, flexibility and responsiveness will be key to any plans being considered between now and November 2012.
- 3.21 To better assist the PCC in understanding their role, the context of policing and crime policy and in developing their budgets, some Force

⁶¹ Ibid, 7.8 – 7.10

⁶² Home Office Plan for Secondary Legislation (October 2011)

⁶³ <http://www.homeoffice.gov.uk/publications/about-us/consultations/policing-complaints-regulation/>

⁶⁴ Based on conversations with local authority and police authority employees

areas are considering the drafting of a “strategic assessment” of priorities and activities, to contribute towards a risk-based approach to planning.

4. Health and Social Care Bill / Act

4.1 The content of the Health and Social Care Bill as introduced into the House of Lords is substantially different from the Bill as originally introduced in the Commons. In response to concerns expressed inside and outside Parliament, the Government committed to a “pause” in the legislation in 2011, while the NHS Future Forum considered the changes in more detail⁶⁵. Subsequently, a revised Bill was introduced that gave other clinical professionals in local area (not just GPs) responsibility for commissioning decisions a role in clinical commissioning groups.

4.2 CfPS has produced detailed briefings on the way that accountability will operate under the new arrangements – in particular, “Accountability and the New Structures”, published jointly with the BMA (November 2011)⁶⁶.

4.2 CCGs and the NHS Commissioning Board - Commissioning remains at the centre of the Bill, with clinical commissioning groups (incorporating GPs, and other professionals, to be introduced by April 2013) taking responsibility for the commissioning of most healthcare services for local people. Local authorities will hold wide powers to steer healthcare, social care and public health policy, through health and well-being boards – in practice this will mean:

- The assessment and monitoring of the health of communities and populations at risk to identify health problems and priorities;
- The formulation of public policies designed to solve identified local and national health problems and priorities;
- Ensuring that all populations have access to appropriate and cost-effective care, including health promotion and disease prevention services, and evaluation of the effectiveness of that care⁶⁷.

4.3 CCGs will be authorised by the NHS Commissioning Board. Prospective CCGs will pass through three phases – an **initial development phase** (taking place from now up to and beyond April 2013), the **application and authorisation process** (from April 2012 to

⁶⁵ The Future Forum’s report, and the Government response, can be found at http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_127443

⁶⁶ <http://www.cfps.org.uk/publications?item=7007&offset=0>

⁶⁷ Based on the Government’s long term plans for public health in England, in “Healthy lives, healthy people” (DH, November 2010), http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_121941

April 2013) and finally (to assure quality and continuous improvement), **annual assessment** (from April 2014 onwards).

- 4.4 The process will begin with a risk assessment of the configuration of the CCG, followed by a “development period” in which the CCG builds up experience, expertise and capacity. This culminates in the formal authorisation process.
- 4.5 To be authorised, prospective CCGs will need to demonstrate their capability across six specific areas⁶⁸:
- A strong clinical and multi-professional focus which brings real added value;
 - Meaningful engagement with patients, carers and their communities;
 - Clear and credible plans which continue to deliver the QIPP (quality, innovation, productivity and prevention) challenge within financial resources, in line with national requirements (including excellent outcomes) and local joint health and wellbeing strategies;
 - Proper constitutional and governance arrangements, with the capacity and capability to deliver all their duties and responsibilities including financial control, as well as effectively commission all the services for which they are responsible;
 - Collaborative arrangements for commissioning with other CCGs, local authorities and the NHS Commissioning Board as well as the appropriate external commissioning support; and
 - Great leaders who individually and collectively can make a real difference.⁶⁹
- 4.6 For scrutineers, the element of most initial interest will be “proper constitutional and governance arrangements”, arrangements that will naturally need to include overview and scrutiny and collaboration between scrutiny, local Healthwatch and lay people involved in CCG governance..
- 4.7 Preparation of joint strategies – in addition to the joint strategic needs assessment⁷⁰ (JSNA), a joint health and wellbeing strategy (JHWS) will need to be signed off by clinical commissioning groups, working with other partners, Local HealthWatch, councils and other professionals through health and wellbeing boards. Local people must be central to the preparation of the Needs Assessment and the Strategy. Practically

⁶⁸ See for more detail, “Developing Clinical Commissioning Groups: Towards Authorisation” (DH, 2011), at http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_130293

⁶⁹ Ibid, p5

⁷⁰ DH Guidance on JSNAs from 2007 at http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_081097

speaking scrutiny will want, and need, to be involved in developing these as well.

- 4.8 The Health and Wellbeing Board for the area – a board comprising a number of local partners, including the local authority, local HealthWatch, CCG representatives and other professionals – must, under the Bill, encourage integrated working. This duty will be especially relevant in the development of the JSNA and the joint health and wellbeing strategy. The HWB cannot compel CCGs in its areas to do, or not do, something, but it will be able to challenge the CCG (through reference to the Secretary of State) if it feels that the CCG’s commissioning plans do not conform to the JSNA or the JHWS.
- 4.9 The HWB can also take on other responsibilities, beyond those set out in statute⁷¹. In this context, HWBs will have a stake in a range of decisions that affect health and health priorities in the area, but which might not be considered to be “traditional” areas for healthcare professionals – particular in respect of prevention and early intervention. For example, a significant focus of the Government’s current community budgeting agenda is on children’s services, which is seeing public health playing a leading policy role in other services that affect young people.
- 4.10 National structures – the existence of national structures will exert a significant effect on local policies. The NHS Commissioning Board, for example, has broad, continuing powers in the Bill over CCGs⁷², to ensure that they are properly commissioning services. Information will also be collected by DH to support national resource allocation – a process that has already begun in shadow form⁷³.
- 4.11 Economic regulation is to be provided by Monitor, the former Foundation Trust regulator. Monitor has a duty to consider VfM (the principles of economy, efficiency and effectiveness) as part of its regulatory role. It has a particular role in encouraging choice and personalisation. Monitor must ensure that services are provided in an “integrated” way, but also has a duty to stop “anti-competitive” practice. The two principles, for practical purposes, could be seen as coming into conflict⁷⁴.
- 4.12 The role of HealthWatch – at the moment it is still too early to make detailed predictions for how Local HealthWatch will work with overview and scrutiny – although it will certainly need to do so. CfPS has carried

⁷¹ “Great expectations: public health is coming home” (LGA, 2011), <http://www.idea.gov.uk/idk/core/page.do?pagelid=30085271>

⁷² “Developing Clinical Commissioning Groups: Towards Authorisation” (DH, 2011)

⁷³ See letter from Sir David Nicholson at http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_129401.pdf

⁷⁴ That is to say, that agreement between providers to provide services in a particular way could be regarded as being inherently anti-competitive.

out detailed studies of the development of LINks (Local Involvement Networks), since their establishment, which may provide some further guidance on this subject⁷⁵, and recently published a major evaluation of the lessons that Local HealthWatch can learn from the experience of LINks⁷⁶.

- 4.13 Health scrutiny's position and powers – the Bill amends the scrutiny provisions in the National Health Service Act 2006. Powers are now to be exercised by the authority, rather than by a health overview and scrutiny committee. This provides more flexibility to local authorities in how they manage the delivery of their scrutiny responsibilities – this could enable creativity but risks dilution of independent scrutiny. .
- 4.14 The Bill is expected to receive Royal Assent in the spring. At that point, it will be easier to draw out some of the practical implications, and it will become clearer in which areas Government plans to lay in Parliament subsequent regulations, or introduce guidance.

5. Broad implications for scrutiny

- 5.1 In this section we will look at the general implications for scrutiny arising from the new legislative framework. At the end, we will look briefly at the issue of effective resourcing and partner/executive resistance – two of the principal barriers in the way of scrutiny being able to capitalise on the opportunities we have set out in the sections above.

Thinking “external”?

- 5.2 Powers in all three pieces of legislation – and in other legislation enacted by the current Government – emphasise the importance of partnership working in the delivery of public services. Large-scale commissioning, more joint working (as evidenced by the tri-borough arrangements in London and the Combined Authority in Greater Manchester⁷⁷) and different attitudes to procurement will mean that the way that services are delivered will be subject to profound change in the coming months and years.
- 5.3 While this may initially suggest that scrutiny will need to look at more “external services”, the challenge is in fact more fundamental than this.

⁷⁵ For example, research carried out with the NHS Centre for Involvement in 2009.

⁷⁶ <http://www.cfps.org.uk/publications?item=6999>

⁷⁷ The tri-borough proposals can be found at

http://www.westminster.gov.uk/workspace/assets/publications/tri-borough-proposals-report_aw3-1297241297.pdf - information on the Manchester combined authority is at <http://www.agma.gov.uk/gmca/index.html>

- 5.4 Increasingly, council business is delivered in partnership with others⁷⁸, and the contents of the Acts will only serve to accelerate this trend. It will become more difficult to distinguish between “internal” council-only services and “external” ones delivered by partners. The merging of the two will mean that the way in which scrutiny deals with all issues across a local area will need to be harmonised.
- 5.5 This may involve a number of changes:
- More proactive consultation and discussion with partners about the scrutiny work programme (most councils consult officers within the council but it is less usual to speak to partners more widely);
 - A better understanding of scrutiny by partners more generally. Even “listed” partners under s104 may be unwilling to participate in scrutiny work at the moment, sometimes because they feel that scrutiny is a confrontational process. Future expansion of partnership powers may provoke scrutiny functions to engage with partners to discuss mutual expectations from the process, and if necessary (as we have suggested before⁷⁹) develop a protocol to define relationships in the future, focusing on improvement and the avoidance of duplication;
 - More scrutiny on specific issues, that may involve partners, rather than “scrutiny of partners”. Traditionally, partners may have been invited to give evidence to scrutiny committees to give an account of their general work. It may make more sense to integrate evidence from partners into scrutiny reviews of “issues” affecting local people;
 - More joint scrutiny⁸⁰. The administrative boundaries of some partners or partnerships may not be coterminous with those of the local authority. More informal or formal joint working may be necessary – particularly in two tier areas.
- 5.6 We have explored the detail of these opportunities in more detail in Policy Briefing 11 (commissioning and shared services) and Policy Briefing 12 (equality impact assessments). We will be covering joint scrutiny in a forthcoming Policy Briefing.

Returning to the “web of accountability”

- 5.7 Our “Accountability Works” research proposed the existence of a “web of accountability”, encompassing a range of different actors at local and national level. This incorporates accountability through regulation and inspection, direct election, scrutiny by non-executives, the media, redress and complaints systems, and management systems. The different institutions – new and old – which will either be affected, or

⁷⁸ As we have previously explored in Policy Briefing 11 (shared services and commissioning) and in “Between a rock and a hard place” (2010).

⁷⁹ In relation to policing, in the joint CfPS/LGA unofficial guidance on PCPs (referenced above) and in various publications with reference to partnership working more generally.

⁸⁰ These issues will be explored in more depth in a subsequent Policy Briefing.

established, by the legislation we have discussed, will all have their own individual accountability arrangements.

- 5.8 Into this complex landscape, scrutiny, with its broader powers over partners, will have to find a niche. We discussed in “Accountability Works” (2010) how accountability by non-executives, while not having primacy over other forms of accountability, alone has the legitimacy, credibility and utility in local areas to demonstrate that it can and should be involved⁸¹. While this is subject to the usual caveats about avoiding duplication, and focusing on those areas where value can be added, a strong argument can be made that scrutiny’s unique role and composition should be recognised as new accountability arrangements are created and developed over the next few months and years.
- 5.9 In practice, this may mean that overview and scrutiny will be carrying out more joint work with other bodies and agencies to pursue areas of mutual interest. For example, local authority scrutiny functions might collaborate with tenant scrutiny panels to jointly challenge housing providers in the local area, draw evidence from Local HealthWatch to challenge health and social care providers, share information with Police and Crime Panels, amongst other opportunities. Apart from enhancing the scope and profile of scrutiny work, this could provide a technique to target resources more effectively.

Fitting in with other developments (sector self-regulation)

- 5.10 Central inspection is largely being withdrawn in the new structural landscape, replaced by the use of marketisation, direct elections and transparency as means to ensure local accountability. Local people, and their representatives, are being expected to take a stronger role in securing accountable and effective services. For local government, this will be most evident through “sector self-regulation”, the approach outlined in the LGA’s “Taking the Lead” offer to local government⁸². A combination of sector peer challenge, and the sharing of best practice through the Knowledge Hub and LG Inform⁸³, this will see local authorities taking responsibility for improvement individually and collectively. “Taking the Lead” sees a key role for scrutiny in allowing councillors to drive the local improvement process, to maintain momentum and to provide constructive scrutiny based on challenging traditional approaches to service delivery.

Barriers

- 5.11 Partner/executive resistance - In many authorities, scrutiny has moved beyond the formal powers set out in this briefing. Positive working

⁸¹ “Accountability Works” (CfPS, 2010), p14,

<http://www.cfps.org.uk/publications?item=91&offset=0>

⁸² <http://www.lga.gov.uk/lga/core/page.do?pagelId=12858175>

⁸³ Both collaborative tools for discussing issues and sharing data.

relationships have built up with partners and the council executive, with the result that the impact of scrutiny work has increased.

- 5.12 However, in some areas, there is resistance to scrutiny becoming involved with “external” bodies, or becoming involved in the way that the council’s executive negotiates, liaises or contracts with those partners. A number of justifications could be given for this. Ultimately, however, this tends to come down to a view – which, as we have seen, is not backed up by the Government, by the sector at large or by the available evidence – that scrutiny is ineffective or would “get in the way”. For partners, the perception may be that scrutiny is an antagonistic and confrontational process.
- 5.13 Ingrained attitudes such as these can be difficult to shift. However, as scrutiny finds itself working in new areas, and looking at existing issues in new ways, some resistance is inevitable. These will need to be addressed through negotiation and dialogue, and through proving scrutiny’s worth by producing high quality work. Having the formal legal powers highlighted in this briefing will help in shifting opinion – greater powers would not have been given to a function that is not seen as broadly effective. However, engagement with scrutiny because of legal compliance is not a good basis for an ongoing relationship. The focus should lie in positively changing minds by carrying out high quality work (whether based on robust, focused challenge, or in-depth policy review and development) that is seen as useful by those being scrutinised.
- 5.14 New powers, no new resources - Police and Crime Panels, new scrutiny powers over partners, the structural reforms in the health services and the wider issues mentioned in this section, all provide new powers and opportunities for scrutiny. However, resources are not expected to increase – in fact, a decrease in scrutiny resources seems more likely in the short term⁸⁴. It is all very well to talk positively about the possibilities and opportunities arising out of the new legislation, but in this financial landscape it is easy to be fatalistic about the capacity of scrutiny in many authorities to capitalise on these.
- 5.15 We cover resourcing in more detail in Policy Briefing 5, and touch on the issue in a number of other recent publications⁸⁵. It would be trite to assert that scrutiny should do “more with less”, but there are lessons from recent experience that suggest that scrutiny resources should be expended only on those areas where scrutiny can add the maximum value⁸⁶.

⁸⁴ The CfPS Annual Surveys show a mixed picture – a fairly static maintenance of the number of dedicated scrutiny officers per authority, but a consistent downward trend in the amount of discretionary funding available to the function. Anecdotally, we expect this trend to continue, and it seems likely that the number of officers dedicated to scrutiny will suffer a fall in 2011/12.

⁸⁵ “Global challenge, local solutions” (2009); “The lion that roared” (2011), “A cunning plan?” (2011)

⁸⁶ “A cunning plan?” (CfPS, 2011)

- 5.16 This may involve the recasting of the role to focus more on services delivered in partnership (helping the council to build and maintain partnership working in difficult financial circumstances), contract management (providing a different, and more public, approach to what is often considered to be a technocratic exercise⁸⁷) or using performance, finance and risk information to drive the scrutiny work programme⁸⁸. In all cases, it will involve more robust prioritisation of scrutiny work – an issue which we explore in more detail in our recent publication on developing an annual scrutiny work programme, “A cunning plan?” (2011).
- 5.17 Discussing these issues goes beyond the remit of this paper, and they are discussed in more detail elsewhere. The important point to note is that the structural and legislative changes laid out in this briefing should not be regarded as presenting opportunities for scrutiny that lie just out of reach for want of an additional resource. Instead, they might be considered as providing an opportunity to recast the way that overview and scrutiny works to fit within a public service landscape that, in a couple of years time, will be transformed from that in existence in 2000.

Centre for Public Scrutiny
December 2011

⁸⁷ Explored further in Policy Briefing 11.

⁸⁸ “A cunning plan?” (CfPS, 2011)

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UPDATE ON WORK PROGRAM : COUNCIL EXCELLENCE SCRUTINY COMMITTEE - 31/01/12

Reports to assist in monitoring the Committee's work programme

It was agreed by the Scrutiny Chairs Group in September 2008 to use the following reports to monitor the work programme for each Scrutiny Committee. The last item on each Scrutiny Committee agenda should be 'Review of the Committee Work Programme'.

Report 1 - Monitoring Report for Scrutiny Committee Work Programme

This report will list all items that have been selected by the Committee for inclusion on the work programme for the current year.

It will also include items, such as previous Panel Reviews, where recommendations have been made to Cabinet. It is important that the implementation of these recommendations is monitored. Otherwise there is no measure of the success of scrutiny.

For each item on the work programme, the report will give a description, an indication of how the item will be dealt with, a relative timescale for the work and brief comments on progress.

Report 2 - Suggestions for Additions to Work Programme

The Work Programme for the Committee should be reviewed at each meeting. This will enable members to ask for new Items to be added to the programme. This report will list any newly suggested items. Committee will then have the opportunity to agree (or not) for them to be added to the programme.

Report 3 - Proposed Outline Meeting Schedule for the Municipal Year

The report will, for each scheduled Committee meeting, list those items which are likely to be on the meeting agenda. This will give the opportunity for Committee members to take a greater lead in organising their work programme.

Report 4 - Progress Report on In-Depth Panel Reviews

This report will give a very brief update on progress / timescales for in-depth panel reviews which are in the 'ownership' of the Committee.

REPORT 1
MONITORING REPORT FOR SCRUTINY COMMITTEE WORK PROGRAMME
COUNCIL EXCELLENCE : 2011 / 2012

Date of New item	Topic Description	How the topic will be dealt with	Estimated Complete Date	Comments on Progress	Complete?
08/07/10	Performance Monitoring (Quarterly updates on existing performance indicators – ‘Exceptions’ only will be reported).	Officer Reports (Emma Degg) (from Oct 2011 – Ian Coleman)		Quarterly Performance Monitoring Reports will be included on each agenda from September onwards.	Continuing
08/07/10	Strategic Change Programme: - Regular updates on proposed savings; - Monitor the effectiveness of the Change Programme;	Officer Reports (Dave Green) (from Oct 2011 – Ian Coleman)		A report on the progress of the Strategic Change Programme Board was provided for the Special meeting arranged for 28/10/10. A further report was produced for the meeting on 18/11/10 and again on 31/01/11. Committee, on 12/07/11, agreed that this item should be part of the work programme for the forthcoming municipal year. A further update was received by Committee on 15/09/11. Agreed that Committee “looks forward to receiving details of emerging projects for inclusion within the Strategic Change Programme”. An Update report was provided for the meeting on 17/11/11.	Continuing
08/07/10	Financial Reporting / Budget: - Monitoring the financial statements - How the authority performs against savings targets; - Review the impact on local residents where savings are made; - Impact of the Comprehensive Spending Review on the borough;	Officer Reports (Ian Coleman)		Financial / Budget Monitoring reports will be included on each meeting agenda.	Continuing

Date of New item	Topic Description	How the topic will be dealt with	Estimated Complete Date	Comments on Progress	Complete?
08/07/10	<p>Office Accommodation:</p> <ul style="list-style-type: none"> - The EC Harris report was referred to the Council Excellence Committee by Cabinet (24 June 2010); - Need to understand the Cabinet timetable; - What are the implications for the Council's Data Centres?; - Future role for agile working 	<p>Officer reports plus site visits. (Bill Norman / Ian Brand)</p>		<p>Special meeting of the Committee arranged for 24th August 2010. Further reports provided at the meetings on 21/09/10 and 18/11/10. Another report produced for the meeting on 31/01/11; to focus particularly on agile working and working in local hubs. Further report produced for 16/03/11. Committee raised anxiety over progress and agreed that "update reports should be presented to future meetings of this Committee on a quarterly basis". Further report to Committee on 12/07/11. Committee also agreed that this item should be part of the work programme for the forthcoming municipal year. A subsequent report was presented to Committee on 15/09/11. A further report will be presented to Cabinet in November 2011.</p> <p>Further report to Committee on 17/11/11 resulted in the Director of Law, HR and Asset Management being requested to liaise with group spokespersons to agree a date for a seminar on agile working.</p>	Continuing

Date of New item	Topic Description	How the topic will be dealt with	Estimated Complete Date	Comments on Progress	Complete?
21/09/10	Employee Forums – What issues do they cover? What are the participation levels? What is the cost of providing the Forums?	Officer report (Kevin Adderley)		Issue initially raised by a member at the Committee meeting on 21/09/10. Report produced for the meeting on 18 th November 2010. An officer review of Staff Diversity Forums will take place. A further report will be produced for a future meeting.	
21/09/10	Income from Golf Courses, to include: Why is projected income not met on an annual basis? Is security of courses a determinant in loss of income?	Officer report (Jim Lester)		Issue initially raised by a member at the Committee meeting on 21/09/10. Report produced for meeting on 18/11/10. Report noted – await the outcome of the PACSPE process.	
21/09/10	Reaching Excellent Level of the Equality Framework for Local Government (EFLG)	Officer report (Kevin Adderley)		Progress report presented to meeting on 21/09/10. Further report, expected 16/03/11, requested in six months time. Report to include the reasons for low levels of Black and Ethnic Minority individuals accessing mainstream services. Subsequent report produced for meeting on 16/03/11. Agreed that a further report should be produced in relation to the Equality Implications of the recent Council Budget, to include information as to what analysis was undertaken and how officers took equality duties into account. Report presented to Committee on 12/07/11.	Outstanding

Date of New item	Topic Description	How the topic will be dealt with	Estimated Complete Date	Comments on Progress	Complete?
18/11/10	Early Voluntary Retirement / Voluntary Severance (EVR/VS) – Analysis and Restructuring	Officer report (Chris Hyams)		<p>Issue initially raised by a member at the Committee meeting on 18/11/10.</p> <p>Report produced for the meeting on 16/03/11. A further update report will be produced at the end of the EVR process.</p> <p>Committee, on 12/07/11, agreed that this item should be part of the work programme for the forthcoming municipal year.</p> <p>Committee, on 12/07/11, also requested a further report on the “impact on employees of restructuring / redeployment, including the support in place for individuals”.</p> <p>Further report presented to committee on 15/09/11. Committee agreed that a report will be presented to a future meeting in relation to the number of vacated posts as a result of EVR/VS that had subsequently been filled.</p> <p>Further report provided to Committee on 17/11/11. Report noted.</p>	Complete

Date of New item	Topic Description	How the topic will be dealt with	Estimated Complete Date	Comments on Progress	Complete?
18/11/10	Proposed changes to Housing Benefit / Council Tax Benefit system - Impact of the Welfare Reform Bill	Officer report (Ian Coleman)		<p>Report produced for the meeting on 31/01/11. Committee agreed that "the issue of welfare reform and changes to the benefits system announced recently, and its likely impact on local government staffing and finances requires detailed examination and should be the subject of a special study by this Committee".</p> <p>Committee, on 12/07/11, agreed that this item should be part of the work programme for the forthcoming municipal year.</p> <p>A report regarding 'Localising Support for Council Tax in England' was presented to Committee on 17/11/11. Agreed that further progress reports will be presented to future meetings.</p>	
12/07/11	Back Office efficiencies and achievements	Officer Report (Ian Coleman)		<p>Committee, on 12/07/11, agreed that this item should be part of the work programme for the new municipal year. Committee agreed, on 15/09/11, that a report will be presented to the next meeting on 17/11/11. Report presented to Committee and noted on 17/11/11.</p>	Complete
12/07/11	Impact of Localism Bill	Officer Report (Emma Degg)		<p>Committee, on 12/07/11, agreed that this item should be part of the work programme for the forthcoming municipal year. A report was requested closer to the time when the Act will be enacted (likely to be late 2011/ early 2012).</p>	

Date of New item	Topic Description	How the topic will be dealt with	Estimated Complete Date	Comments on Progress	Complete?
12/07/11	Development of an Outcome-based Commissioning Framework	Officer Report (Ian Coleman)		Committee (12/07/11) agreed that a further report be presented on options for applying such a framework to major service reviews emerging from the consultation exercise.	
15/09/11	Customer Access Strategy	Officer Report (Ian Coleman)		Committee (15/09/11) agreed that a further report will be presented on 17/11/11. A report was presented to Committee on 17/11/11. Committee agreed that "the officers be requested to prepare a standard procedure to ensure that ward councillors are updated in relation to changes in the use of libraries and One Stop Shops".	
15/09/11	Capital Strategy	Officer Report (Ian Coleman)		Committee (15/09/11) agreed that a further report will be presented on 17/11/11. A report was presented to Committee on 17/11/11.	Complete
15/09/11	Balance Sheet Management – Review of Reserves and Provisions	Officer Report (Ian Coleman)		Committee (15/09/11) agreed that a further report will be presented on 31/01/12.	
15/09/11	Masters in Business Administration (MBA) Programme	Officer Report (Chris Hyams)		Committee (15/09/11) agreed that a report will be presented to a future meeting. A report was presented to Committee on 17/11/11. Committee requested a further report "upon the issue of senior officer training within the organisation, to include information as to how applications to attend the MBA course are assessed, in relation to the costs and benefits to the Council".	

Date of New item	Topic Description	How the topic will be dealt with	Estimated Complete Date	Comments on Progress	Complete?
17/11/11	Corporate Governance - The Chair requested that the report of the Chief Executive in relation to Work Programme Progress and Associated Issues, considered by the Corporate Governance Cabinet Committee at its meeting on 16th November 2011, be presented for Member's consideration.	Officer Report (Bill Norman)		The report, as requested by the Chair, was presented to Committee on 17/11/11. Committee agreed that a further report "be requested to present an update on the work of the Corporate Governance Committee to the next meeting of the Committee".	

REPORT 2
SUGGESTIONS FOR ADDITIONS TO WORK PROGRAMME
COUNCIL EXCELLENCE : 31/01/12

Topic Description	Topic suggested by	How the topic will be dealt with	Estimated Completion Date
On 12/12/11, Council referred the draft Corporate Plan to the relevant Scrutiny Committees for comment.	Council meeting held on 12/12/11.		
Regarding Budget Projections 2012-15, agreed by Cabinet on 08/12/11, the Council meeting of 12/12/11 referred the sum of £1.4m pay provision to the Council Excellence Overview & Scrutiny Committee.	Council meeting held on 12/12/11.		

REPORT 3
PROPOSED OUTLINE MEETING SCHEDULE FOR THE MUNICIPAL YEAR
COUNCIL EXCELLENCE : 2011 / 2012

Meeting Date	Topic Description
12/07/11	Financial Monitoring Statement (Ian Coleman) Revenues Incomes and Benefits (Ian Coleman) Budget Projections 2012/2015 (Ian Coleman) Local Government Resource Review (Ian Coleman) Procurement Strategy (Ian Coleman) Housing Benefit / Council Tax Benefit Annual Report (Ian Coleman) Customer Services Annual Report (Ian Coleman) Development of an Outcome-based Commissioning Framework (Ian Coleman) Treasury Management Annual Report (Ian Coleman) Equality Implications of Council Budget (Jacqui Cross) Financial Out-turn 2010-11 (Ian Coleman) Final Local Government Finance Settlement 2011 / 2013 (Ian Coleman) Office Accommodation (Bill Norman) The People Strategy 2010-2013 (Chris Hyams) Q4 Performance Monitoring – Report concentrating on red / amber ‘exceptions’ plus a verbal update on the future (Emma Degg) Work Programme Update Forward Plan
15/09/11	Financial Monitoring Statement (Ian Coleman) Revenues Incomes and Benefits (Ian Coleman) Office Accommodation (Ian Brand) Strategic Change Programme (Dave Green) Impact on employees of restructuring / redeployment, including the support in place for individuals (Chris Hyams) Replacement Programme Control System Software Forward Plan Work Programme Update

Meeting Date	Topic Description
27/09/11	Special Budget meeting: Financial Monitoring Statement (Ian Coleman) Budget Projections 2012/2015 (Ian Coleman) Outcome Based Commissioning Community Budgets Treasury Management (Ian Coleman) Q1 Performance Monitoring – Report concentrating on red / amber ‘exceptions’ plus a verbal update on the future (Emma Degg) You Choose – Budget Consultation Budget Key Issues
17/11/11	Financial Monitoring Statement (Ian Coleman) Revenues Incomes and Benefits (Ian Coleman) Budget Projections 2012/2015 (Ian Coleman) Treasury Management Q2(Ian Coleman) Medium Term Financial Strategy (Ian Coleman) Back Office Efficiencies (Ian Coleman) Customer Access Strategy (Ian Coleman) Capital Strategy (Ian Coleman) Procurement Strategy (Ian Coleman) Internal Audit Review (Ian Coleman) LGRR Business Rates Reform (Ian Coleman) Council Tax Benefit Reform (Ian Coleman) EVR Restructures (Ian Coleman) EVR Capitalisation (Ian Coleman) Q2 Performance Monitoring – Report concentrating on red / amber ‘exceptions’ (Ian Coleman) Office Accommodation / Agile working (Ian Brand) Strategic Change Programme (Ian Coleman) Early Voluntary Retirement / Voluntary Severance and Organisational Changes (Chris Hyams) Masters in Business Administration (MBA) programme (Chris Hyams) Corporate Governance Forward Plan Work Programme Update

Meeting Date	Topic Description
31/01/12	<p><u>Preliminary agenda items may include the following:</u></p> <p>Financial Monitoring Statement (Ian Coleman) Revenues Incomes and Benefits (Ian Coleman) Budget Projections 2012/2015 (Ian Coleman) Treasury Management Q3(Ian Coleman) Medium Term Financial Strategy (Ian Coleman) Balance Sheet Management – Review of Reserves and Provisions (Ian Coleman) Q3 Performance Monitoring – Report concentrating on red / amber ‘exceptions’ (Ian Coleman) Corporate Governance (Bill Norman) Corporate Plan – Referral from Council Budget Projections 2012-15 (agreed by Cabinet on 08/12/11) re. the sum of £1.4m pay provision - Referral from Council Forward Plan Work Programme Update</p>
26/03/12	To be confirmed

**REPORT 4
PROGRESS REPORT ON IN-DEPTH PANEL REVIEWS
COUNCIL EXCELLENCE : 31/01/12**

Title of Review	Members of Panel	Progress to Date	Date Due to report to Committee
None at present			

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UPDATE ON WORK PROGRAMME : CHILDREN & YOUNG PEOPLE OVERVIEW & SCRUTINY COMMITTEE – 16.11.2011

Reports to assist in monitoring the Committee's work programme

It was agreed by the Scrutiny Chairs Group in September 2008 to use the following reports to monitor the work programme for each Scrutiny Committee. The last item on each Scrutiny Committee agenda should be 'Review of the Committee Work Programme'.

Report 1 - Monitoring Report for Scrutiny Committee Work Programme

This report will list all items that have been selected by the Committee for inclusion on the work programme for the current year.

It will also include items, such as previous Panel Reviews, where recommendations have been made to Cabinet. It is important that the implementation of these recommendations is monitored. Otherwise there is no measure of the success of scrutiny.

For each item on the work programme, the report will give a description, an indication of how the item will be dealt with, a relative timescale for the work and brief comments on progress.

Report 2 - Suggestions for Additions to Work Programme

The Work Programme for the Committee should be reviewed at each meeting. This will enable members to ask for new Items to be added to the programme. This report will list any newly suggested items. Committee will then have the opportunity to agree (or not) for them to be added to the programme.

Report 3 - Proposed Outline Meeting Schedule for the Municipal Year

The report will, for each scheduled Committee meeting, list those items which are likely to be on the meeting agenda. This will give the opportunity for Committee members to take a greater lead in organising their work programme.

Report 4 - Progress Report on In-Depth Panel Reviews

This report will give a very brief update on progress / timescales for in-depth panel reviews which are in the 'ownership' of the Committee.

REPORT 1
MONITORING REPORT FOR SCRUTINY COMMITTEE WORK PROGRAMME
CHILDREN & YOUNG PEOPLE: 2011 / 2012

Date of New item	Topic Description	How the topic will be dealt with	Estimated Complete Date	Comments on Progress	Complete?
20/9/11	Report on staff absence trends within CYPD	Report to Committee	Jan 12	This item was proposed by members for inclusion on the work programme at the committee meeting on 20/09/11	
1/06/11	Progress on Oaklands Residential	Report to Committee	Jan 12	This item was proposed by members for inclusion on the work programme at the committee meeting on 01/06/11	
1/06/11	Early Intervention Grants – ‘Outcome of Commissioning’ – lessons learnt	Report to Committee	Nov 11	This item was proposed by members for inclusion on the work programme at the committee meeting on 01/06/11	
1/06/11	Planning for 2012 Youth Parliament	Report to Committee	Nov 11	This item was proposed by members for inclusion on the work programme at the committee meeting on 01/06/11	
01/06/11	Green Paper on SEN – Authority’s response	Report to Committee	Sept 11	This item was proposed by members for inclusion on the work programme at the committee meeting on 01/06/11.	
01/06/11	Literacy Scrutiny Review – recommendations and progress review	Report to Committee	Nov 11	This item was proposed by members for inclusion on the work programme at the committee meeting on 01/06/11.	

REPORT 2
SUGGESTIONS FOR ADDITIONS TO WORK PROGRAMME
CHILDREN & YOUNG PEOPLE OVERVIEW & SCRUTINY COMMITTEE – 2011/2012

Topic Description	Topic suggested by	How the topic will be dealt with	Estimated Completion Date

REPORT 3
PROPOSED OUTLINE MEETING SCHEDULE FOR THE MUNICIPAL YEAR
CHILDREN & YOUNG PEOPLE: 2011 / 2012

Meeting Date	Topic Description
20/09/11	Budget – Key Issues Department Restructure Performance & Financial Monitoring Q1 SEN Green Paper Safeguarding & LAC Insp Report Action Plan update Child Poverty Strategy – Action Plan Adoption Inspection School Annual Performance – Early years and primary
16/11/11	Performance & Financial Monitoring Q2 Literacy Review – recommendations and progress report Childrens Annual Complaints Report EIG & Commissioning – lessons learnt Secondary Schools Places - Demographic update Fostering Service Report on Inspection Ofsted Children’s Services Assessment School Annual Performance – Post 16 Child Poverty Action Plan/Implementation
26/01/11	Sickness Absence Scheme of Delegation Child Poverty Strategy – Action plan YSAC 2012 Youth Parliament planning report Oaklands planning CYPD department staff absence trends Sanderling Places 100 Club Academies Report
21/03/12	Performance & Financial Monitoring Q3 Approved Scheme of Delegation Child Poverty Strategy – Action Plan

REPORT 4
PROGRESS REPORT ON IN-DEPTH PANEL REVIEWS
CHILDREN & YOUNG PEOPLE OVERVIEW & SCRUTINY COMMITTEE – 16/11/11

Title of Review	Members of Panel	Progress to Date	Date Due to report to Committee

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UPDATE ON WORK PROGRAMME : ECONOMY & REGENERATION
OVERVIEW & SCRUTINY COMMITTEE - 16/01/12

Reports to assist in monitoring the Committee's work programme

It was agreed by the Scrutiny Chairs Group in September 2008 to use the following reports to monitor the work programme for each Scrutiny Committee. The last item on each Scrutiny Committee agenda should be 'Review of the Committee Work Programme'.

Report 1 - Monitoring Report for Scrutiny Committee Work Programme

This report will list all items that have been selected by the Committee for inclusion on the work programme for the current year.

It will also include items, such as previous Panel Reviews, where recommendations have been made to Cabinet. It is important that the implementation of these recommendations is monitored. Otherwise there is no measure of the success of scrutiny.

For each item on the work programme, the report will give a description, an indication of how the item will be dealt with, a relative timescale for the work and brief comments on progress.

Report 2 - Suggestions for Additions to Work Programme

The Work Programme for the Committee should be reviewed at each meeting. This will enable members to ask for new Items to be added to the programme. This report will list any newly suggested items. Committee will then have the opportunity to agree (or not) for them to be added to the programme.

Report 3 - Proposed Outline Meeting Schedule for the Municipal Year

The report will, for each scheduled Committee meeting, list those items which are likely to be on the meeting agenda. This will give the opportunity for Committee members to take a greater lead in organising their work programme.

Report 4 - Progress Report on In-Depth Panel Reviews

This report will give a very brief update on progress / timescales for in-depth panel reviews which are in the 'ownership' of the Committee.

REPORT 1
MONITORING REPORT FOR SCRUTINY COMMITTEE WORK PROGRAMME
ECONOMY & REGENERATION : 2011 / 2012

Date of New item	Topic Description	How the topic will be dealt with	Estimated Complete Date	Comments on Progress	Complete?
06/06/11	The implementation of affordable housing policies	Report to Committee on 05/09/11		During the discussion on the 'End of Year Performance Report' on 06/06/11, members requested a report to the next meeting on this item. Report on Affordable Housing presented to Committee on 05/09/11. Further report requested to include 'Mortgage help for first-time buyers'.	
06/06/11	Wirral Apprenticeship scheme	Report to Committee		During the discussion on the 'Apprenticeship Programme' item at the meeting on 06/06/11, members requested a further update specifically on level 3 up-take and on the preparedness of the education sector for the challenge of the new requirement for functional skills. Further report on 'The Wirral Apprentice' provided to Committee on 05/09/11.	Complete
06/06/11	Green Growth – Motion agreed at Council in April requesting this Scrutiny Committee to “investigate and draw up a report for Cabinet on the best ways to create and support a ‘cluster’ of companies to lead the way in driving a Green economy on Wirral and across the country”.	In-depth Scrutiny Review by Working Group of Members	December 2011	This item was proposed by members for inclusion on the work programme at the committee meeting on 06/06/11. Scope document for the Review agreed by Committee on 05/09/11. It is expected that the final report for the review will be presented to Committee in March 2012.	

Date of New item	Topic Description	How the topic will be dealt with	Estimated Complete Date	Comments on Progress	Complete?
06/06/11	Business Start Programme The Programme has performed well but: <ul style="list-style-type: none"> • Are we supporting businesses for the future? • What size of business is supported? • How long have supported businesses remained in business? Were businesses satisfied with the support?	Report to Committee		This item was proposed by members for inclusion on the work programme at the committee meeting on 06/06/11. Report presented to Committee on 07/11/11. Agreed that a further report on the future options for a business start-up programme be brought to a future meeting.	
06/06/11	European Social Fund and the Work Programme to include: <ul style="list-style-type: none"> • Progress report on the contract with the Reach-Out consortia What are the comparisons with arrangements / results at other Local Authorities?	Report to Committee in November		This item was proposed by members for inclusion on the work programme at the committee meeting on 06/06/11. Report presented to Committee on 07/11/11.	Complete
06/06/11	Inward Investment	Report to Committee		This item was proposed by members for inclusion on the work programme at the committee meeting on 06/06/11. Report presented to Committee on 05/09/11. Agreed that a further report will be provided once the Inward Investment Manager is in post.	
06/06/11	Housing Market Renewal Initiative (HMRI) What are the options now that HMRI has ended?	Report to Committee		This item was proposed by members for inclusion on the work programme at the committee meeting on 06/06/11. Report due to be presented to Committee on 16/01/12.	
06/06/11	Visit to regeneration and housing sites, for example, housing schemes, Wirral International Business Park, Wirral Waters	Members visit to be arranged by Kevin Adderley		This item was proposed by members for inclusion on the work programme at the committee meeting on 06/06/11. Visit took place Friday 21/10/11.	Complete

Date of New item	Topic Description	How the topic will be dealt with	Estimated Complete Date	Comments on Progress	Complete?
05/09/11	Budget Issues for Economy & Housing in 2012/13	Officer report		Initial report presented to Committee on 05/09/11 following a request by the Council Leader for Scrutiny Committees to be consulted on budget issues for 2012/13. On 05/09/11, Committee agreed that Cabinet-led suggestions highlighting potential savings be requested. A special Committee meeting will be arranged to discuss those options / suggestions.	
05/09/11	Fair Trade	Mark Johnston		The Chair provided a verbal report to Committee on 05/09/11 regarding the work undertaken by him as Fair Trade Champion. In future, this work will be organised by the Economy & Regeneration Scrutiny Committee (rather than by Champions). A further report will be provided to a Committee meeting in the future (possibly November 2012).	
07/11/11	Child Poverty Strategy	Officer Reports		A progress report on the Child Poverty Strategy and Action Plan was presented to the Committee on 07/11/11. Agreed that regular updates will be brought to Committee in the future.	
07/11/11	Presentation by Lindsay Ashworth, Peel Holdings	Presentation to Committee		A presentation will be made by Lindsay Ashworth to the Committee meeting on 16/01/12.	

REPORT 2
SUGGESTIONS FOR ADDITIONS TO WORK PROGRAMME
ECONOMY & REGENERATION : 16/01/12

Topic Description	Topic suggested by	How the topic will be dealt with	Estimated Completion Date
On 12/12/11, Council approved a Notion of Motion regarding Affordable Homes. In particular the NOM referred to the Government's New Mortgage indemnity scheme. The NOM requested that the Economy & Regeneration OSC should request a report on how Wirral can "be at the vanguard of any implementation plan of the Government's scheme".	Council meeting held on 12/12/11.		
On 12/12/11, Council referred the draft Corporate Plan to the relevant Scrutiny Committees for comment.	Council meeting held on 12/12/11.		
Request invitation to representatives of the local business community to attend a meeting of the Economy & Regeneration OSC to discuss their concerns with the economy of the borough.	Cllr Mark Johnston		

REPORT 3
PROPOSED OUTLINE MEETING SCHEDULE FOR THE MUNICIPAL YEAR
ECONOMY & REGENERATION : 2011 / 2012

Meeting Date	Topic Description
06/05/11	Terms of Reference for the Committee End of Year Performance report 2010-11 Apprenticeship Programme Scrutiny Work Programme Forward Plan Regeneration Update
05/09/11	Implementation of affordable housing policies (to include options for localised definition of affordable housing) (Ian Platt) Inward Investment (Kevin Adderley) Performance Monitoring Report – Quarter 1 (Kevin Adderley) Budget Issues for Economy & Housing in 2012/13 (Kevin Adderley) Green Growth Scrutiny review: Update (Report of Working Group – Cllr Mark Johnston, Chair) Referral from Council meeting on 18 th July 2011 – Motion regarding Shale Gas Fracking The Wirral Apprentice – Update report Fair Trade – Progress report (Cllr Mark Johnston) Scrutiny Work Programme Forward Plan Regeneration Update
07/11/11	Invest Wirral – Presentation (Paula Basnett) Future plans for the Business Start Programme (Kevin Adderley) European Social Fund and the Work Programme (Kevin Adderley) Department for Work & Pensions Work programme (David Ball) Performance Monitoring Report – Quarter 2 (Kevin Adderley) Child Poverty Strategy – Update (Jane Morgan) Scrutiny Work Programme Forward Plan Regeneration Update (Exempt Item)

Meeting Date	Topic Description
16/01/12	<p>Presentation by Lindsay Ashworth (Peel Holdings) Progress Report on Housing Market Renewal Initiative (HMRI) and transition funding (Ian Platt) Draft Corporate Plan 2012/13 (Kevin Adderley) Performance Monitoring Report – Quarter 3 (Kevin Adderley) Scrutiny Work Programme Forward Plan Regeneration Update</p>
To be arranged	<p>Special Meeting – Budget Issues for Economy & Housing in 2012/13</p>
08/03/12	<p>Green Growth Scrutiny Review – Final report Scrutiny Work Programme Forward Plan Regeneration Update Plus other items.....</p>

REPORT 4
PROGRESS REPORT ON IN-DEPTH PANEL REVIEWS
ECONOMY & REGENERATION : 16/01/12

Title of Review	Members of Panel	Progress to Date	Date Due to report to Committee
Green Growth Scrutiny Review	Cllr Mark Johnston (Chair) Cllr Peter Kearney Cllr Steve Niblock Cllr Stuart Whittingham	<p><u>As at 28/07/11:</u></p> <ul style="list-style-type: none"> • Two meetings of the working group have been held to discuss the general approach to the review • A draft Scope for the review has been agreed • Further meetings will be held in September with Council officers and members of the business community to commence evidence-gathering for the review <p><u>As at 12/10/11:</u> Meetings have been held with officers representing:</p> <ul style="list-style-type: none"> • Invest Wirral. • Forward Planning (Wirral Council). • Strategic Policy, Economic & European Unit (Wirral Council). • Marketing Department (Wirral Council). • Asset Management (Wirral Council). • Three Wirral businesses operating in the green sector. <p>Further meetings with officers and businesses are being planned. A questionnaire for green sector businesses in Wirral is also being developed.</p> <p><u>As at 19/12/11:</u> The evidence-gathering stage of the review is now complete. Members have started to produce their conclusions / recommendations from the review. It is expected that the final report for the review will be presented to Committee in March 2012.</p>	March 2012

Report 1

MONITORING REPORT FOR WORK PROGRAMME 2011 - 2012

(UPDATES AFTER MEETING 13 SEPTEMBER 2011 - ISSUES TO BE ACTED UPON ARE IN RED)

Date of item	Topic Description	How the topic will be dealt with	Comments on Progress	Complete
<p><u>13/9/2011</u></p>	<p>The Committee received an update on its work programme and Members were invited to consider whether any issues should be added to the schedule for the current municipal year.</p> <p>Resolved – That the following topics be added to the work programme and reports be presented to future meetings of the Committee –</p> <ul style="list-style-type: none"> ▪ An update in relation to Cheshire and Merseyside Vascular Surgery Review ▪ An update with regard to Highcroft Day Centre, and work being undertaken to promote day care centres. ▪ A report in response to media coverage in relation to alleged rationing of operations for hips, knees and cataracts at Clatterbridge and at the Royal Liverpool Teaching Hospital. ▪ A report upon the use of buildings at Clatterbridge and Arrowe Park Hospitals, including proposals for the Centre for Oncology. 	<p>Report from Chair</p> <p>Report from Officers</p> <p>Report from Officers</p> <p>Report from Officers</p>		

<u>20/6/2011</u>	<p><u>The Committee received an update on its work programme.</u></p> <p>The Chair invited the Committee to make any suggestions for the future work programme.</p> <p>Resolved – That the report and additions to the work programme be noted</p> <p>Agreed items are outlined below.</p>			
20/6/2011 ITEM 1.	<p><u>ITEM 1</u></p> <p>The Sub-Group monitoring the implementation of the improvement plan following the CQC inspection report will provide a report to the next meeting.</p>	Report from Sub Group	Agreed that Sub Group will Report to meeting 13th Sept. 2011 with any progress on this matter.	
20/6/2011 ITEM 2	<p><u>ITEM 2</u></p> <p>The Review Panel into domestic violence would continue its work.</p>	Report from Review Panel.		
20/6/2011 ITEM 3	<p><u>ITEM 3</u></p> <p>Additions to the work programme should include further reports on the implications of changes to the Independent Living Fund (ILF) and also the Disability Living Allowance (DLA).</p>	Report from Officers		
20/6/2011 ITEM 3	<p><u>ITEM 4</u></p> <p>Once the review panel on domestic violence had completed its work, A review panel on the provision of Local Authority services for people with dementia would then be established. (see minute 10 ante).</p>	Establish a new Panel then receive a Report from the Panel.		
20/6/2011 ITEM 4	<p><u>ITEM 5</u></p> <p>The Chair suggested that, in consultation with the Scrutiny Support Officer and the Committee Officer, amendments be made to the layout of the work programme document to make it more user friendly and a revised format would then be circulated to the Committee for comments.</p>	New layout for Work Programme from Scrutiny Support Office.		

20/6/2011	<u>ITEM 6</u> <u>Equality Framework for Local Government</u>	Jaqui Cross made a Presentation to the Committee	Jacqui Cross highlighted some specific areas relevant to the work of this Committee such as: <ul style="list-style-type: none">■ Health inequalities■ Patient recovery■ Hospital targets■ Assistive technology in homes■ Homelessness and health■ Independent living■ Domestic violence	

Report 2

SUGGESTIONS FOR ADDITIONS TO WORK PROGRAMME

Topic Description	Topic suggested by	How the topic will be dealt with	Estimated Completion Date
Further Implications of changes to the Independent Living Fund (ILF)	June 2011 Meeting	Officer report	
Further Implications of changes to the Disability Living Allowance DLA	June 2011 Meeting	Officer report	
An update in relation to Cheshire and Merseyside Vascular Surgery Review	September Meeting	Chair/Officer report	
An update with regard to Highcroft Day Centre, and work being undertaken to promote day care centres.	September Meeting	Officer report	
A report in response to media coverage in relation to alleged rationing of operations for hips, knees and cataracts at Clatterbridge and at the	September Meeting	Officer report	
A report upon the use of buildings at Clatterbridge and Arrowe Park Hospitals, including proposals for the Centre for Oncology.	September Meeting	Officer report	

Report 3

PROGRESS REPORT ON IN-DEPTH PANEL REVIEWS

Title of Review	Members of Panel	Progress to Date	Progress of the review
<p style="text-align: center;"><u>2010 - 2011</u> <u>Panel on Domestic Violence</u> <u>MEETING MARCH 2011</u></p>	<p><u>Councillors:</u> Moira Mc Laughlin (Chair) Pat Glassman Ann Bridson Cheryl Povall</p>	<p>An Interim Report was presented to March meeting. <u>Resolved</u> – That the interim report be noted and the Review Panel be thanked for their work so far.</p>	<p>Report to March 2011 meeting.</p>
<p><u>AGREED AT MEETING 20th JUNE 2011</u> It was agreed The review panel into Domestic Violence would continue. A new panel was agreed.</p>	<p><u>Councillors:</u> Pat Glassman (Chair) Ann Bridson Cheryl Povall Denise Roberts</p>		
<p><u>Sub-Group monitoring the implementation of the improvement plan following the CQC Inspection Report.</u></p>	<p><u>Councillors:</u> Tony Smith Ann Bridson Geoff Watt</p>	<p>Sub Group met on the 17th March 2011</p>	
<p><u>AGREED AT MEETING 20th JUNE 2011</u> It was agreed the Sub Group would continue.</p>		<p>Sub Group would provide a report to the next meeting with any progress on this matter.</p>	

<p><u>A Review Panel on the provision of Local Authority services for people with Dementia</u></p> <p><u>AGREED AT MEETING 20th JUNE 2011</u></p> <p>It was agreed that <u>once the review panel on domestic violence had completed its work</u>, A review panel on the provision of Local Authority services for people with dementia would then be established</p>		<p>Cabinet at it meeting on 14 April, 2011 Invited the Health & Wellbeing Overview and Scrutiny Committee to consider whether they would undertake a scrutiny review of the provision of Local Authority services for people with dementia, and what further steps could be taken to enhance outcomes through early intervention and support.</p> <p>Resolved – That a scrutiny review be undertaken on the provision of Local Authority services for people with dementia once the Domestic Violence review is complete and that membership of the Review Panel include Sue Lowe</p>	
<p><u>2010 - 2011</u></p> <p><u>Final Dementia Scrutiny Review</u></p>	<p><u>Councillors</u></p> <p>Ann Bridson (Chair) Sheila Clarke Denise Roberts Chris Teggin</p> <p>Supported by Alan Veitch, Scrutiny Support officer</p>	<p><u>Update March 2011</u></p> <p>Resolved –</p> <ol style="list-style-type: none"> 1. That the contents and recommendations of the Dementia Scrutiny Review be supported. 2. That the Dementia Scrutiny Report be presented to the next appropriate cabinet meeting. 3. That further reports be presented to the Health & Well Being Overview and Scrutiny Committee to update members regarding the outcomes of the recommendations. 4. That the Review Panel be thanked for all their work on the review. 	<p><u>Review Completed</u></p>

SUSTAINABLE COMMUNITIES OVERVIEW AND SCRUTINY COMMITTEE – WORK PROGRAMME 2011/12

Title:	Department:	Comments/ Justification:
7th June 2011:		
Review of Winter Working Resilience Arrangements	Technical Services	Progress report and formal presentation – item requested by Cabinet and O&S Committee (COMPLETE)
Library Service Introduction of E-books	Finance	One off report (COMPLETE)
2010/11 Quarter 4 Performance Report	Technical Services Law, HR & Asset Management Corporate Services	Regular report covering performance and financial issues (COMPLETE)
26th September 2011:		
Review of Pavement/ Verge Parking Enforcement Initiative	Technical Services	Progress report requested by O&S Committee
Highway & Engineering Services – Second Annual Review	Technical Services	Progress report and formal presentation on the strategic contract with Colas Ltd that commenced in April 2009
'Have a safe and well-maintained highway network for all users' – Progress Update	Technical Services	Corporate 'goal' annual progress report
Wirral Trader Scheme	Law, HR & Asset Management	Report on the development and progress of the scheme
2011/12 Quarter 1 Performance Report	Technical Services Law, HR & Asset Management Corporate Services	Regular report covering performance and financial issues

<p>23rd November 2011:</p> <p>'Reduce Wirral's Carbon Footprint' – Progress Update</p> <p>Wirral Flood & Water Management Partnership – Progress Update</p> <p>Consumer Landscape Review</p> <p>Tackling Domestic Violence in Wirral</p> <p>2011/12 Quarter 2 Performance Report</p>	<p>Law, HR & Asset Management</p> <p>Technical Services</p> <p>Law, HR & Asset Management</p> <p>Law, HR & Asset Management</p> <p>Technical Services Law, HR & Asset Management Corporate Services</p>	<p>Corporate 'goal' annual progress report</p> <p>Regular progress report on the work of the Partnership as requested by O&S Committee</p> <p>To consider the outcome and implications of a major review of consumer protection by the Office of Fair Trading</p> <p>To fulfil the OSC scrutiny role in respect of the OSC and report on activity to support the Corporate Goal to provide advocacy and support for survivors of domestic violence</p> <p>Regular report covering performance and financial issues</p>
<p>30th January 2012:</p> <p>Streetscene Environment Services Contract – Fifth Annual Review</p> <p>'Minimise waste by encouraging waste reduction and recycling' – Progress Update</p> <p>'Have high standards of environmental quality across Wirral' – Progress Update</p>	<p>Technical Services</p> <p>Technical Services</p> <p>Technical Services</p>	<p>Progress report and formal presentation on the strategic contract with Biffa that commenced in August 2006</p> <p>Corporate 'goal' annual progress report</p> <p>Corporate 'goal' annual progress report</p>

Review of Underage Sales Prevention and Enforcement	Law, HR & Asset Management	To report activity that supports the Corporate Goal to protect children and young people from harm
2011/12 Quarter 3 Performance Report	Technical Services Law, HR & Asset Management Corporate Services	Regular report covering performance and financial issues
28th March 2012:		
'Provide and maintain high quality parks and open spaces in partnership with local communities' – Progress Update	Technical Services	Corporate 'goal' annual progress report
'Provide high quality, value for money leisure and cultural facilities for Wirral residents' – Progress Update	Technical Services	Corporate 'goal' annual progress report
Wirral Climate Change Group Annual Report	Law, HR & Asset Management	Annual report on work of Wirral Climate Change Group

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