



Standards and Constitutional Oversight Committee

Date:	Thursday, 26 September 2019
Time:	6.00 p.m.
Venue:	Committee Room 1 - Wallasey Town Hall

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AGENDA

1. **APOLOGIES FOR ABSENCE**
2. **MEMBERS DECLARATIONS OF INTEREST**
3. **MINUTES (Pages 1 - 10)**

To approve the minutes of the meeting of the Standards and Constitutional Oversight Committee meeting held on 11 June 2019.
4. **CONSTITUTIONAL ARRANGEMENTS FOR THE OPERATION OF THE NORTHERN LOCAL GOVERNMENT PENSION SCHEME INVESTMENT POOL (Pages 11 - 60)**
5. **REVIEW OF SCRUTINY ARRANGEMENTS (Pages 61 - 158)**
6. **GOVERNANCE REVIEW (Pages 159 - 178)**
7. **MEMBERSHIP OF THE INDEPENDENT REMUNERATION PANEL (Pages 179 - 186)**

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STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

Tuesday, 11 June 2019

Present: Councillor T Cox (Chair)

Councillors C Blakeley P Stuart
C Cooke J Williamson
P Gilchrist G Wood
M McLaughlin

In attendance:

Independent Prof R Jones
Persons Mr G Kerr

1 **MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

No declarations of interest were received.

2 **APPOINTMENT OF VICE-CHAIR**

RESOLVED:

That Councillor Moira McLaughlin be appointed Vice-Chair of the Committee for the ensuing Municipal Year.

3 **MINUTES**

RESOLVED:

That the Minutes of the meeting of the Committee held on 26 February 2019 be confirmed as a correct record.

4 **GOVERNANCE REVIEW**

The Director of Governance and Assurance reported that the Annual Meeting of the Council required the Committee to look at the Council's governance arrangements. The purpose was to include options to change the Council's form of governance, with an express intention to consider adopting a committee system as well as different executive arrangements. The Committee was to report back on 11 September 2019 to allow for detailed work to follow for adoption of any new form of governance from the 2020 Annual Meeting of the Council.

The report was very informative and set out the various options and arguments for the Committee, in brief, and recommended establishing a Workshop and Working Group of the Committee to examine the issues further.

The Director had sketched out what the different forms of governance looked like in his report. He informed that there was a distinct difference between the form of governance that the Council adopted and the arrangements that sat underneath each form. There were two forms of governance that the Council could choose to adopt. Principally, there was a choice between an Executive form of governance and that meant either a Leader and Cabinet or a directly elected Mayor and Cabinet or a Committee form of governance which was variations of Committees and what was permitted under the Local Government Act 1972. This was the traditional structure that Councils did operate under until 2000 but still formed the legislative basis for those functions that were retained by the Council and not mandated to the Executive.

The Director reported that of those two forms of Executive there was a directly elected Mayor which was the form of governance that Liverpool City Council had adopted. The significant differences between that and a Leader and Cabinet was that a directly elected Mayor could not be removed they were in power for four years and had a greater say over the Executive governance arrangements that sat underneath them and also had a greater say over the budget. Beyond that, there was actually very little difference between the directly elected Mayor model and the Leader model.

The Committee noted that what this Council currently had was a form of governance originally called the Strong Leader model because at the beginning, variations had been permitted within the Leader model and then after 2009, the Government of the day had decided that it had to be a Strong Leader model. This had been changed dramatically by the 2011 Localism Act which allowed the Council to make several choices of the kind of Leader and Cabinet that it wanted to adopt.

Under the current arrangements, the Leader had the say over who made a decision but under Executive arrangements, the Council was able to say how the decision was made. The procedures and arrangements that sat around the decision-making were governed, within the Council's Constitution, by what was known as the Executive Procedure Rules.

The Director also reported that this Council was almost unique in having no Executive Procedure Rules. They had been removed from the Constitution so if the Council decided to continue with this model, after September 2019, there would be a great deal of choice over how open or closed the system of decision-making could be. Equally, if the Council changed to a Committee

system and that was voted on by the Council, then it would be for a five year period, it would not be able to change the arrangements for five years.

Members noted that under the Committee system there were wide variations. Those Councils who had moved to a Committee system since 2011 did not follow the same form as that which this Council had adopted in the 1980s and 1990s. On the whole Committee systems were a lot slicker and a lot more focussed now. There were no longer the myriad of Committees with each one making a recommendation to each other and on to the Council.

Members then asked questions and made comments to which the Director responded accordingly. Issues raised included the following:

- There was dissatisfaction with the current form of governance.
- Whatever form of governance was adopted in future there would need to be a lot more accountability, credibility and transparency.
- 18 months would be an ideal run up to agreeing a form of governance but this review would be carried out a lot faster. Additional support would need to be bought in to rewrite the Constitution as there was insufficient capacity available in-house. This was considered the most cost efficient way to do this. The Deputy Monitoring Officer would be discussing the Council's requirements with colleagues in the North West Consortium.
- The Council would have to run with any new form of governance that was adopted for five years but the governance arrangements that sat underneath that could be changed during that period.
- If the Committee gave the Director clear instructions he was confident he would be able to provide a Constitution that would include good working practices, by this time next year, and then further amendments could be made as and when they were required.
- The Bill Local Leadership, Local Choice presented to Parliament by the Deputy Prime Minister and Secretary of State for the Environment, Transport and the Regions in March 1999 claimed that
 - the public had not been well served by the traditional ways Councils had worked;
 - the system had been inefficient, opaque and weakened local accountability; and
 - major decisions, in reality, were often taken outside of the Committee meetings.
- This was how things occasionally worked under the present form of governance. People lost confidence in their Council's decisions. Individual Councillors became disillusioned with their ability to influence local decisions and people were discouraged from standing for election. There needed to be trust between those elected to represent and lead communities and those who elected them and whom they

served. If communities were to have the leadership they needed people had to identify with the way they were governed.

- When there had been a Committee system Members had felt that they were able to have their say. Sometimes meetings were rushed and sometimes Political Groups used their majorities to try to close down debate but at least Members could make their points, challenge and take part in a debate.
- Members needed to feel that their votes meant something and their constituents needed to see what they were doing.
- A form of governance needed to be drawn up and agreed by the Council that dealt with the longstanding criticisms of the old system and dealt with the similar criticisms of the system it had operated in recent times.
- There were 66 Members on the Council. The current form of governance allowed 10 to make decisions and 56 to just make comment, except when agreeing the budget at the Council meeting etc. 56 Members were denied the opportunity to take part in 97% of the Council's decision-making.
- The Local Government Association was unable to assist with the drafting of a new Constitution. This was something that some law firms specialised in.
- Re-writing the Constitution would mean starting again with a blank sheet of paper. Some of it would be 'off the shelf' but there were 82 things that must be included) available from the Model Constitution and from other places so there may not be the exact fine tuning to be done, that might have been done, if the work had been carried out at a slower pace. The new Constitution might not be perfect but it would be lawful.
- In recent times the general public had not felt engaged with the activities of the Council and its decision-making had become remote.
- It was time to change the culture because the public wanted the Council to do this and with national politics too. Things had changed there were now five Political Groups and they were all involved in this and over time they would all come to understand that no Group had a monopoly on good ideas. The five Groups differed fundamentally on some issues but they all wanted to produce ideas that benefitted the people they served.
- The Wirral has a diverse set of communities with different needs and expectations.
- In recent times, all Members of the Cabinet had been from the same Political Group and the lack of challenge had dumbed down the quality of the debate at Cabinet meetings.
- The consistent complaints from Members of all Political groups had been that the Council meetings were frustrating for most Members because it did not debate many issues.
- If there was a change in the form of governance it took place at the following Annual Council meeting.

RESOLVED: That

- (1) a cross-party Workshop be established to explore available forms of governance and governance arrangements in greater detail; and**
- (2) an all-party working group be established to consider the outcome of the Workshop and make a recommendation to the Committee's meeting on 11 September 2019 to refer to the Council on 14 October 2019.**

5 CONFIDENTIAL: CASE ID - 17020182 CCR 8355 (LGO PUBLIC REPORT)

A report by the Lead Commissioner for All Age Independence informed that the Local Government Ombudsman (LGO) had investigated a complaint about the Council and found the Council to be at fault. It had made a number of recommendations that had been accepted in full. The Ombudsman had made the decision that the report would be published. In accordance with the recommendations the report was being considered by the Cabinet and this Committee. The report sought to set out the action that had been taken, or would be taken, to avoid similar faults in future and to meet the recommendations of the report in full which had been accepted. The findings and recommendations were specific to the adult social care case that was investigated.

This was a confidential case so the report referred to Mr X, as the son of the former service user, and for ease of reference the same approach had been taken in this report.

The care and support package had been inadequate on this occasion and the Council had taken an inordinate amount of time to investigate the complaints. Consequently, 50% of the care fees had been waived to remedy the financial loss that had been caused. A payment of £200 had been made as a remedy for the frustration and stress caused. Assessment staff, complaints staff and operational teams had all received the appropriate training (a two day course) around safeguarding led by an independent Safeguarding trainer from the university and a full apology had been offered. The Council had also referred the case to the Merseyside Safeguarding Adults Board with a request that it considered holding a formal review. This action had been taken and it had been referred to a Sub-Committee of the Merseyside Safeguarding Adults Board and a recommendation had been made to the independent Chair of the Board that this matter be put on the agenda for the meeting on 26 June 2019. The Council had also reviewed its complaints handling process, appointed additional resource to that team and it was now performing better on handling complaints.

The Assistant Director – Health and Care Outcomes was in attendance at the meeting and answered Members' questions on the specific care and support

package concerned, domiciliary care and the care provider, the detail of the complaints made, safeguarding arrangements, the subsequent actions that the Council had taken and the resulting changes that had been brought about to ensure nothing like this happened again.

Members registered their extreme disappointment over what had happened on this occasion. It was a very sad case and they hoped that lessons had been learnt as a result. They could see parallels going back to 2010/11 when there had been an issue of overcharging vulnerable people which had come to light. The Council this time had either not provided the correct level of care or it had overcharged the person concerned. A refund was now being made and Members wanted to know whether the costs of the refund had been claimed back from the trusted care provider because that provider had not provided what the Council had paid them to do. The Assistant Director informed that the Ombudsman's findings were largely in relation to safeguarding processes not being identified and invoked early enough and not completed along with the fact that the Council should have reviewed the case to make sure that the right level of care was being provided. He agreed that it was a fair question to ask the care provider for some consideration and ask it to respond accordingly. The Assistant Director was unsure as to whether this had been done so agreed to look into it.

A Member enquired whether there had been any suspicion that the gentleman's care needs had not been met and that he had been in any way neglected. The Assistant Director informed that the answer was yes because the care provider had not been providing the level of care that was required. There had been some quality issues with the care that had been identified and detail of the exact specifics had been included in the report, some of it had been related to practice around using a hoist, moving and handling techniques amongst other things. Genuine concerns had been raised by the complainant about the quality of care that should have been investigated more thoroughly as safeguarding issues.

The Assistant Director confirmed that in respect of this case it had been identified that there had been a consistent under provision of time and care as well as quality issues.

Members requested the Assistant Director to present the report to the Adult Care and Health Overview and Scrutiny Committee were it could be explored in detail and he informed that he would consider this request and let the Committee have confirmation in due course. The Assistant Director would also let Members know whether or not the care provider (as a company in any form) was still providing care packages and whether this had been an isolated case or not. He was, however, confident that the Council had arrangements in place with its current providers to hopefully avoid similar cases in the future.

The Assistant Director informed that the Service Quality Performance Reports were in-depth and were submitted regularly by providers as part of the contract monitoring arrangements to the Team who worked alongside the Council's Quality Improvement Team. Jointly they were looking at contractual compliance and quality of provision. He was happy to share this information and suggested that perhaps the Health and Care Panel could receive these reports. However, he did have to be mindful that sometimes that information was commercially sensitive.

The Assistant Director reported that the Council performed well on its review targets for all those supported in Wirral with care and support packages. The reviews were inclusive of family members, representatives and the people themselves. All the Council's processes had set areas to record the views of carers and representatives, to make sure they were captured and this was the same in respect of assessments too. When people were first seen their views, their representatives and those of their carers were all noted. This was regarded as being very important. The trusted assessor process with providers had this built in and their views were taken on board. The Council was pushing its online self-assessment and self-review so people could access information and make their views known as well as request reviews if they thought the circumstances had changed. Uptake was very low but it was another avenue that the Council could use.

RESOLVED:

That the report and actions that have been or will be taken, in response to the Local Government Ombudsman's recommendations be noted.

6 CODE OF PRACTICE FOR GOVERNANCE OF COUNCIL INTERESTS IN COMPANIES

The Director of Governance and Assurance informed that Councils were now able to own commercial companies and trade through them, either as a wholly owned company or as a joint venture with a private sector partner and trade on the markets. The Council was an organisation entrusted with public money. Consequently, in the interests of openness, transparency and accountability, the Leader had made the decision to adopt the Draft Code of Practice for the Governance of Council Interests in Companies (Draft Code) but had also referred it to the Business Overview and Scrutiny Committee meeting on 18 September 2019 (Minute No. 20 refers.) and to the Audit and Risk Management Committee meeting on 24 September 2019 (Minute No. 25 refers.) for noting prior to its adoption.

The Committee received copies of the Decision Notice, the reports considered at meetings of the Shareholder Board on 27 June 2018 and 19 March 2019 and the Minute extracts in respect of the Business Overview and Scrutiny and

the Audit and Risk Management Committees who had considered the Draft Code of Practice last September.

The Committee noted that the intention of the Draft Code of Practice was to promote and ensure good governance in relation to those companies in which the Council was a shareholder and create a 'blueprint' for an approach to company interests in concert with the Council's adopted Commercial Strategy (minute to item 40 refers, Cabinet 26th November 2018). It was also noted that the Draft Code was in accordance with the local government model.

The Director reported that a lot of work had been undertaken to produce what was a national example and the model now used up and down the country and was put out by professional bodies. It was a model that had been checked through various law firms. There was one difference to what was here and what was in the national model. The national model contained a suggestion that Council owned companies were held through a separate holding company. When this was discussed at the Shareholder Board with the Leader, it was considered that the Council should not operate through a holding company but each company should be looked at separately so that was a change that was incorporated and the only change that differed from the national model. The structure of it followed the CIPFA/ SOLACE Model Code of Corporate Governance that the Council had adopted as its Corporate Code.

The Director was then asked a number of questions by Members about the Council's companies, their meetings and minutes and how their operations were scrutinised which he answered accordingly. The Director was reminded that the Committee had previously asked for a list of all the companies that the Council was involved in, solely and as a joint venture and agreed to present it to a future meeting. The list would also be presented to a future meeting the Audit and Risk Management Committee.

RESOLVED:

That the Code of Practice for Governance of Council Interests in Companies be noted.

7 APPOINTMENT OF PANELS

The Committee was requested to formally establish the Standards Panel and Standards Appeal Panel in accordance with paragraph 9.5 of Article 9 of the Council's Constitution and the Protocol for Dealing with Complaints against Members.

RESOLVED: That

- (1) a Standards Panel and Standards Appeal Panel be formally established pursuant to paragraph 9.5 of Article 9 of the Council's Constitution;**
- (2) Membership of the Standards Panel comprise:**
Councillors C Blakeley (Con), C Cooke (Green), P Gilchrist (Lib Dem) and Paul Stewart (Lab); and G Wood (Lab);
- (3) Membership of the Standards Appeal Panel comprise:**
Councillors T Cox (Con), M McLaughlin (Ind); and J Williamson (Lab);
- (4) each Political Group may nominate an 'Alternative Member' from his/her Political Group to sit on a Standards Panel or Standard Appeals Panel, providing that the Member nominated has undertaken the requisite training on the Members' Code of Conduct (and any other training required by the Committee); and**
- (5) the Director of Governance and Assurance be requested to arrange a training event for all Members of the Council in September 2019.**

8 WEBCAST PROJECT UPDATE – VIEWING STATISTICS

The Committee considered a report which it had requested at its last meeting on 29 August 2019 that provided it with an update on the Council and its Committees webcast viewing statistics.

Members noted that a number of recent Council meetings had generated significant public interest, necessitating use of 'overflow rooms' where members of the public who were unable to access the Council Chamber viewing gallery could watch proceedings via the web link. As a result, some statistics did not (positively) reflect the full level of public interest for specific meetings. It was also noted that some archive views of meetings could be generated by Council officers who utilised the archive to assist in the preparation of meeting Minutes and actions arising as a result of Member debate.

The viewing figures for the Municipal Year 2018/19 (67 meetings) were as follows:

- 1842 'live' views during all meetings
- 6911 access views to the archive
- 8753 Total

A breakdown of the above figures was attached to the report at Appendix 1.

Members raised concerns about the poor quality subtitles/transcriptions that appeared at the bottom of the webcasts. It was proposed that Public-I be informed that the quality was not as good as had been expected. However, Members were informed that officers were working with Public-I, the webcasting company, to bring about improvement and were purchasing an additional piece of kit to address the issue. Links were also being included to direct people to other services that would help with this issue. It was noted that, there was a particular problem which was caused by the local accent. Other applications were also being explored.

RESOLVED: That

- (1) Public-I be given the opportunity to address the problem of the poor subtitles/transcriptions with the provision of the add on to the webcasting system on order; and**
- (2) this Committee will continue to monitor the Council's webcasting arrangements and subsequent viewing statistics, during the ensuing Municipal Year.**



STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

26 SEPTEMBER 2019

REPORT TITLE	<i>CONSTITUTIONAL ARRANGEMENTS FOR THE OPERATION OF THE NORTHERN LOCAL GOVERNMENT PENSION SCHEME INVESTMENT POOL</i>
REPORT OF	<i>DIRECTOR: GOVERNANCE AND ASSURANCE</i>

REPORT SUMMARY

- (a) This report seeks the approval of the Committee to the constitutional arrangements that the Pension Committee at its meeting on 16 July 2019 recommended to the full Council in order to implement the requirements imposed on administering authorities for local government pension schemes by the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016 (the Investment Regulations) to establish, in accordance with the guidance of the Secretary of State arrangements with other LGPS Pension Funds to pool investments in order to oversee greater efficiency and economise on the costs of investment management.
- (b) Tameside and Bradford Councils are the administering authorities for the local government pension schemes in Greater Manchester and West Yorkshire respectively.
- (c) The Pensions Committee proposed that the Council, in its capacity as administering authority for the LGPS in Merseyside should enter into pooling arrangements with Tameside and Bradford Councils and to that end set up a Joint Governance Committee composed of elected representatives of all three authorities to oversee the implementation of the pooling of investments by the three LGPS schemes.

RECOMMENDATIONS

- 1) That the Standards and Constitutional Oversight Committee approves and recommends to the full Council;
 - (a) the proposed principles of governance contained in the draft Operating Agreement approved by the Pensions Committee at its meeting on 16 July

2019 and in particular the establishment of a Joint Committee with Tameside and Bradford Councils to oversee the required arrangements for the pooling of investments by all three Pension Funds.

- (b) The Chair and Vice Chair of the Pensions Committee (or as otherwise determined by Pensions Committee) be the Council's elected representatives on the Joint Committee.
- (c) The Director of Pensions in consultation with the Director: Governance and Assurance be given delegated authority to negotiate and agree with Tameside and Bradford Councils the details of the final draft of the Operating Agreement within the parameters of the principles of governance approved by the Pensions Committee and the Standards and Constitutional Oversight Committee.

SUPPORTING INFORMATION

1.0 REASONS FOR THE RECOMMENDATIONS.

- 1.1 Pooling of investments by local government pension funds is required by the Investment Regulations as supplemented by statutory guidance from the Secretary of State.
- 1.2 Pooling could lead to a reduction in the costs of investment management through economies of scale.
- 1.3 There should be elected member oversight of the performance of the officers from the three authorities who will be responsible for the management of the investments of the three pension funds.
- 1.4 A joint committee composed of the chairs and vice chairs of the pension committees (or as otherwise determined) and three trade union representatives (representing the membership of the three funds) is considered to be an appropriate mechanism for ensuring informed and efficient oversight of investment decisions made by officers.

2.0 OTHER OPTIONS

- 2.1 No other options were considered since the reasons for the recommendations are adequate, and have the support of the Council's Pensions Committee and Tameside and Bradford Councils.

3.0 BACKGROUND INFORMATION

- 3.1 The report of the Director of Pensions to the Pensions Committee on 16 July 2019 is attached as an appendix.
- 3.2 It explains the reasons for the Secretary of State's insistence on the pooling of investments by local government pension schemes (economies of scales, reduction in costs, and an improved capacity to invest in infrastructure).
- 3.3 The report contains the draft Operating Agreement which sets out the matters reserved to the Pensions Committees of each of the three Councils (e.g. investment strategy, appointment of the Pool Custodian, social and environmental policy on investments), the terms of reference of the Joint Committee (principally oversight of investment performance of the three Pension Funds), Joint Committee procedures, and the terms of reference of the Officer Working Group (principally the selection of external investment managers).
- 3.4 A central principle of the Secretary of State's Guidance is that the appointment of investment managers and the selection of individual investments are decisions that must be made by properly qualified and experienced professional officers. This is reflected in the terms of reference of the Officer Working Group. (Schedule 4 of the draft Operating Agreement).

- 3.5 Investment strategy, asset allocations, social, ethical, and environmental principles are reserved to each authority's Pensions Committee thereby ensuring local member control of these important areas of policy. (Schedule 1 of the draft Operating Agreement).
- 3.6 The Joint Committee's terms of reference focus upon the oversight of the performance of the pooled investments managed by the officers thereby ensuring accountability to elected Members. (Schedule 2 of the draft Operating Agreement).
- 3.7 Membership of the Joint Committee comprises the chair and vice chair of the Pensions Committee of each authority being those members which each authority considers has the necessary knowledge and experience to perform the oversight function. In addition, three trade union representatives should ensure that the voice of the members of each of the three pension schemes is heard.
- 3.8 As explained in paragraphs 2.11 and 2.12 of the report to the Pensions Committee the MHCCG will formally consult on revisions to its current guidance on pooling which may include the establishment of a pool company regulated by the Financial Conduct Authority to manage the pooled investments in place of the Officers Working Group. That is however sometime in the future and in the meantime there needs to be approval by the full Council of the proposed existing arrangements so that pooling of investments can be implemented in accordance with the requirements of the Investment Regulations. The Council's Pensions Committee will respond to any proposals on future structures that MHCLG may include in its formal consultation.
- 3.9 The draft Operating Agreement in the appendix is complete other than a final consideration of the drafting of Schedule 4 (Officers Working Group). A debate is being conducted on whether the Officers Working Group should make decisions on investments unanimously or whether in the absence of unanimity, the officers from the Pension Fund which has the highest value of the assets that will be affected, should make the decision. It is proposed that resolution of this detail be delegated to the Director: Governance and Assurance and the Director of Pensions for them to reach an agreement with Tameside and Bradford Councils. In reality this may not be a problem since the selection of investment managers will be governed by objective criteria that will be scored by officers in accordance with the Council's Contract Procedure Rules who will be aiming for consensus.
- 3.10 The full Council did not consider the report of the Director of Pensions at its meeting on 15 July 2019 as, upon reflection, it was thought more appropriate for the Council to have the benefit of the advice of this Committee and that of the Pensions Committee before reaching a decision.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The cost of the Joint Governance Committee will be shared equally by all three Councils and met from the budgets for each pension fund.

- 4.2 The cost will mainly comprise the administrative arrangements which will be carried out by Tameside Council on behalf of all the authorities.
- 4.3 The cost of procuring investment managers will be apportioned to each authority in proportion to their share of the assets under management.

5.0 LEGAL IMPLICATIONS

- 5.1 There is a requirement to establish a Joint Committee with Tameside and Bradford Council in order to oversee the implementation of the three Councils' pooling arrangements by officers.
- 5.2 The Committee and the Pensions Committee may need to reconsider the pooling arrangements in the light of future legislation or guidance from MHCLG.

6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

- 6.1 None.

7.0 ENVIRONMENTAL IMPLICATIONS

- 7.1 None.

8.0 RELEVANT RISKS

- 8.1 MHCLG may intervene if it is not satisfied that the investment pooling arrangements are formally established in each Council's Constitution in accordance with existing legislation and guidance.
- 8.2 The outcome of MHCLG's future consultation may require the Council to reconsider its rejection of the option of forming a pooling company to manage the pooled investments instead of the Officers' Working Group.
- 8.3 In that eventuality the MHCLG's proposed alternative arrangements will be referred to the Council's Pensions Committee for an initial response prior to referral back to this Committee for re-consideration.

9.0 ENGAGEMENT/CONSULTATION

- 9.1 The proposals have the support of the Council's Pensions Committee.

10.0 EQUALITY IMPLICATIONS

- 10.1 There is no relevance to equality.

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APPENDICES

1. Minute Extract Pensions Committee on 16 July 2019.
2. The report of the Director of Pensions to the Pensions Committee on 16 July 2019.
3. Draft Agreement.

BACKGROUND PAPERS

None other than the Investment Regulations and the statutory guidance which are publicly accessible documents.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Pensions Committee	29 October 2018 16 July 2019

EXTRACT

PENSIONS COMMITTEE 16 JUL 2019

MIN 27 POOL OPERATING AGREEMENT

The Director of Pensions introduced a report that provided Members with a progress report on the implementation of governance arrangements in relation to Merseyside Pension Fund's participation in the Northern LGPS pool (NLGPS).

A copy of the Operating Agreement for the Northern LGPS, which had been taken to Council on 15 July for approval, was attached at Appendix A to the report. The Operating Agreement had been the subject of a report to Pensions Committee on 29 October 2018.

The report informed that in the July Budget 2015, the Chancellor had announced the Government's intention to work with Local Government Pension Scheme (LGPS) (the Scheme) administering authorities to ensure that they pooled investments to significantly reduce costs while maintaining overall investment performance. The Government had subsequently issued the criteria which set out how administering authorities could deliver against the Government's expectations of pooling assets. The report addressed the second of those criteria - Strong governance and decision making. Pooling has been a standing item on the Pensions Committee agenda since that time.

It was reported that in response to the Government's pooling requirements, eight pension pools had been established across England & Wales encapsulating the 88 local government pension funds - and a range of pooling structures had been put in place. Merseyside Pension Fund had formed the Northern LGPS pool with two other local government pension funds; Greater Manchester and West Yorkshire Pension Funds, all large, cost effective Metropolitan funds. The individual funds would retain their current role of setting asset allocation and investment policy and would delegate the implementation of that policy to the Northern LGPS.

Members were informed that a Joint Governance Committee would be formed which would have responsibility for ensuring that the appropriate structure and resources were in place to implement the policy required by each fund, those resources to be provided by the three Funds. The principal activities of the Joint Governance Committee were set out in Schedule 2 of the appendix to the report.

The Director of Pensions advised that a meeting had been held in March 2018 with the advisors to all three funds and the NLGPS shadow Joint Governance Committee to consider options for developing the pool. The unanimously supported conclusion had been to design a simple, low cost pool that will continue delivering the performance the funds expect.

The Northern LGPS Operating Agreement was attached to the report as Appendix A, and set out how the Northern LGPS will operate, with the three partners having equal voting rights, being responsible for costs on an equal basis (except investment

management costs which will be attributed in proportion to the assets being managed). The Agreement also appointed Tameside Borough Council (the administering authority for Greater Manchester Pension Fund) as the host council. The key items of note were those contained in the first three schedules to the agreement, which determined the:-

- Matters reserved to the Pooling Partners
- Joint Governance Committee Terms of Reference
- Joint Governance Committee Procedure

Following agreement by Pensions Committee on 29 October 2018, the Director of Pensions and the Borough Solicitor had been reviewing the Operating Agreement and liaising with pool partners and advisors with a view to ensuring a mutually acceptable agreement that provides Wirral, as administering authority, with the ability to discharge its responsibilities.

Recommended – That Committee approves and recommends to the Standards and Constitutional Oversight Committee and full Council the proposed principles of governance contained in the draft Operating Agreement and delegates to the Director of Pensions and the Director: Governance and Assurance the authority to negotiate and agree with Tameside and Bradford Councils the final draft of the Operating Agreement in consultation with the Chair.

WIRRAL COUNCIL

PENSIONS COMMITTEE

16 JULY 2019

SUBJECT:	NORTHERN LGPS OPERATING AGREEMENT
WARD/S AFFECTED:	NONE
REPORT OF:	DIRECTOR OF PENSIONS
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

- 1.1 This report provides Members with a progress report on the implementation of governance arrangements in relation to Merseyside Pension Fund's participation in the Northern LGPS pool (NLGPS).
- 1.2 A copy of the Operating Agreement for the Northern LGPS, which was taken to Council on 15 July for approval, is attached at Appendix A. The Operating Agreement was the subject of a report to Pensions Committee on 29 October 2018.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 In the July Budget 2015, the Chancellor announced the Government's intention to work with Local Government Pension Scheme (LGPS) (the Scheme) administering authorities to ensure that they pooled investments to significantly reduce costs while maintaining overall investment performance. The Government subsequently issued the following criteria which set out how administering authorities could deliver against the Government's expectations of pooling assets. This report addresses the second of those criteria - **Strong governance and decision making**.

Pooling has been a standing item on the Pensions Committee agenda since that time.

Pooling Criteria

- I. **Asset pool(s) that achieve the benefits of scale:** The 89 administering authorities in England and Wales should collaborate to establish, and invest through asset pools, each with at least £25bn of Scheme assets. The proposals should describe these pools, explain how each administering authority's assets will be allocated among the pools, describe the scale benefits that these arrangements

are expected to deliver and explain how those benefits will be realised, measured and reported.

- II. **Strong governance and decision making:** The proposed governance structure for the pools should:
- I. At the local level, provide authorities with assurance that their investments are being managed appropriately by the pool, in line with their stated investment strategy and in the long-term interests of their members;
 - II. At the pool level, ensure that risk is adequately assessed and managed, investment implementation decisions are made with a long-term view, and a culture of continuous improvement is adopted.

Authorities should also revisit their internal processes to ensure efficient and effective decision making and risk management, while maintaining appropriate democratic accountability. Authorities should explain:

- The governance structure for their pool(s), including the accountability between the pool(s) and elected councillors, and how external scrutiny will be used.
 - The mechanisms by which the authority can hold the pool(s) to account and secure assurance that their investment strategy is being implemented effectively and their investments are being well managed.
 - Decision making procedures at all stages of investment, and the rationale underpinning this.
 - The shared objectives for the pool(s), and any policies that are to be agreed between participants.
 - The resources allocated to the running of the pool(s), including the governance budget, the number of staff needed and the skills and expertise required.
 - How any environmental, social and corporate governance policies will be handled by the pool(s).
 - How the authorities will act as responsible, long term investors through the pool(s), including how the pool(s) will determine and enact stewardship responsibilities.
 - How the net performance of each asset class will be reported publically by the pool, to encourage the sharing of data and best practice.
 - The extent to which benchmarking is used by the authority to assess their own governance and performance and that of the pool(s), for example by undertaking the Scheme Advisory Board's key performance indicator assessment.
- III. **Reduced costs and excellent value for money:** In addition to the fees paid for investment, there are further hidden costs that are difficult to ascertain and so are rarely reported in most pension fund accounts. To identify savings, authorities are expected to take the lead in this area and report the costs they incur more transparently. Proposals should explain how the pool(s) will deliver substantial

savings in investment fees, both in the near term and over the next 15 years, while at least maintaining overall investment performance.

Active fund management should only be used where it can be shown to deliver value for money, and authorities should report how fees and net performance in each listed asset class compare to a passive index. In addition authorities should consider setting targets for active managers which are focused on achieving risk-adjusted returns over an appropriate long term time period, rather than solely focusing on short term performance comparisons.

- IV. **An improved capacity to invest in infrastructure:** Only a very small proportion of Local Government Pension Scheme assets are currently invested in infrastructure; pooling of assets may facilitate greater investment in this area. Proposals should explain how infrastructure will feature in authorities' investment strategies and how the pooling arrangements can improve the capacity and capability to invest in this asset class.
- 2.2 Pooling of investments has resulted in some fundamental changes to the oversight and management of LGPS assets. Importantly, administering authorities retain responsibility for most aspects of pensions including matters such as: investment strategy, pension liabilities, asset allocation and responsible investment policy. However, manager selection has been explicitly made a Pool decision. Practically speaking, this makes little difference to current arrangements at MPF where fund officers have significant involvement in the management of the fund's assets including the selection of managers. Officers will continue to manage this area but collaboratively with officers of the pool partner funds.
- 2.3 In response to the Government's pooling requirements, eight pension pools have been established across England & Wales encapsulating the 88 local government pension funds - and a range of pooling structures have been put in place. Merseyside Pension Fund has formed the Northern LGPS pool with two other local government pension funds; Greater Manchester and West Yorkshire Pension Funds, all large, cost effective Metropolitan funds. The individual funds will retain their current role of setting asset allocation and investment policy, and will delegate the implementation of that policy to the Northern LGPS.
- 2.4 A Joint Governance Committee will be formed which will have responsibility for ensuring the appropriate structure and resources are in place to implement the policy required by each fund, those resources to be provided by the three Funds. The principal activities of the Joint Governance Committee are set out in Schedule 2 of the appendix.
- 2.5 The Joint Governance Committee will consist of two Members appointed by each Fund plus a total of three trade union representatives and will not have any direct involvement in the appointment of managers or selection of investments. As required in the Guidance, these matters will be fully delegated to professional officers.

- 2.6 The long-term vision for the pool is to provide access to:
- a range of internal and externally managed listed assets at low cost
 - collective investment in alternatives, while building skill to enable cost reduction by increasing direct access
 - working arrangements with other pools where greater size may add value.
- 2.7 The investment philosophy is to maintain simple arrangements, with a relatively low number of managers, low manager and portfolio turnover, an increasing proportion of assets managed internally within the pool, with individual funds retaining the ability to select asset class, territory, and active or passive management.
- 2.8 A meeting was held in March 2018 with the advisors to all three funds and the NLGPS shadow Joint Governance Committee to consider options for developing the pool. The unanimously supported conclusion was to design a simple, low cost pool that will continue delivering the performance the funds expect.
- 2.9 The Northern LGPS Operating Agreement is attached to this report as Appendix A, and sets out how the Northern LGPS will operate, with the three partners having equal voting rights, being responsible for costs on an equal basis (except investment management costs which will be attributed in proportion to the assets being managed). The Agreement also appoints Tameside Borough Council (the administering authority for Greater Manchester Pension Fund) as the host council. The key items to note are those contained in the first three schedules to the agreement, which determine the:-
- Matters reserved to the Pooling Partners
 - Joint Governance Committee Terms of Reference
 - Joint Governance Committee Procedure
- 2.10 An earlier iteration of this Operating Agreement has been approved at Council meetings of both the partner funds' administering authorities.
- 2.11 Since approval by Bradford Council and Tameside Council, the Ministry of Housing, Communities and Local Government has issued further Pooling Guidance. This was the subject of an informal consultation which closed in March 2019. The Pool's response to this consultation is available at: https://northernlgps.org/assets/pdf/2019-03-19_statguidanceresponse.pdf There has been no formal response to the consultation. The Minister has announced, subsequently, that the Guidance will be reissued for a formal consultation. However, the timetable for this to happen is unclear and it is important that an oversight body is formally constituted by NLGPS in order to comply with the extant 2015 guidance.
- 2.12 The recently issued draft Pooling guidance contained a number of changes, setting out the requirements on administering authorities in relation to the pooling of LGPS assets, building on previous Ministerial communications and guidance on investment strategies, and taking account of the current state of progress on pooling. If the Guidance was to be issued as drafted, the most significant implication for the Northern LGPS would be the requirement, as set out in section 3, to establish a pool company for the majority of assets which 'must be a company

regulated by the Financial Conduct Authority (FCA) with appropriate FCA permissions for regulated activities'. Was this to be the case, the governance arrangements proposed for approval would remain essentially intact although the Joint Committee's oversight would be in relation to the pool company rather than the Officer Working Group - as detailed in Schedule 4.

2.13 Following agreement by Pensions Committee on 29 October 2018, the Director of Pensions and the Borough Solicitor have been reviewing the Operating Agreement and liaising with pool partners and advisors with a view to ensuring a mutually acceptable agreement that provides Wirral, as administering authority, with the ability to discharge its responsibilities.

2.14 The pooling reports have also been extensively reviewed by the Local Pension Board which has commended the approach adopted by the Northern LGPS.

3.0 RELEVANT RISKS

3.1 Pooling will result in fundamental changes to oversight and management of LGPS assets. It is essential that appropriate governance arrangements are put in place to ensure that Pensions Committee can exercise its responsibilities in accordance with the Council's constitution.

4.0 OTHER OPTIONS CONSIDERED

4.1 No other options have been considered.

5.0 CONSULTATION

5.1 The Pooling consultation has been discussed with the Merseyside Directors of Finance and stakeholders have been kept informed of the pooling consultation and its implications.

6.0 OUTSTANDING PREVIOUSLY APPROVED ACTIONS

6.1 There are no previously approved actions outstanding.

7.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

7.1 There are none arising from this report.

8.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

8.1 There are none arising directly from this report. The anticipated financial costs of establishing pooling arrangements and the projected savings over the long-term are set out in the Fund's pooling submission of 15 July 2016.

9.0 LEGAL IMPLICATIONS

9.1 There is a requirement to establish a Joint Governance Committee with Tameside and Bradford Councils in order to oversee the implementation of the pooling arrangements by the officers of the 3 Councils;

- 9.2 The Committee will need to re-consider the pooling arrangements in the light of future guidance from MHCLG;
- 9.3 The details of the Operating Agreement have yet to be finalised with Tameside and Bradford Councils but no major differences have been identified.

10.0 EQUALITIES IMPLICATIONS

- 10.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

(b) No because there is no relevance to equality.

11.0 CARBON REDUCTION AND ENVIRONMENTAL IMPLICATIONS

- 11.1 There are no carbon usage implications, nor any other relevant environmental issues arising from this report.

12.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

- 12.1 There are none arising from this report.

13.0 RECOMMENDATION/S

Subject to the decision of the full Council at its meeting on 15/7/19, it is recommended that;

- 13.1 The Committee approves and commends to the Full Council the proposed principles of governance contained in the draft Operating Agreement and delegates to the Director of Pensions and the Director: Governance and Assurance the authority to negotiate and agree with Tameside and Bradford Councils the final draft of the Operating Agreement in consultation with the Chair.
- 13.2 That Members note the in principle approval of the Operating Agreement by Council and consider whether any amendments are required before it is formally adopted in the Constitution.

14.0 REASON/S FOR RECOMMENDATION/S

- 14.1 Guidance issued by MHCLG requires that a Pool oversight body is established by administering authorities. Pooling will result in fundamental changes to oversight and management of LGPS assets.

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APPENDICES

BACKGROUND PAPERS/REFERENCE MATERIAL

BRIEFING NOTES HISTORY

Briefing Note	Date

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
An update report is brought to each Pensions Committee	

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**Northern LGPS Joint Governance
Committee Agreement**
between

Tameside Metropolitan Borough Council	(1)
City of Bradford Metropolitan Borough Council	(2)
Wirral Metropolitan Borough Council	(3)

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BY

- (1) **TAMESIDE METROPOLITAN BOROUGH COUNCIL** of Guardsman Tony Downes House, 5 Manchester Road, Droylsden, Manchester M43 6SF ("**Tameside**");
- (2) **CITY OF BRADFORD METROPOLITAN BOROUGH COUNCIL** of Aldermanbury House, 4 Godwin street, Bradford, BD1 2ST ("**Bradford**"); and
- (3) **WIRRAL METROPOLITAN BOROUGH COUNCIL** of Castle Chambers, 43 Castle Street, Liverpool L2 9SH ("**Wirral**")

(together referred to as the "**Pooling Partners**" and individually as a "**Pooling Partner**")

BACKGROUND

- (A) The Pooling Partners are all councils responsible for the administration of local government pensions within their areas as set out in the Local Government Act 1972 and the Superannuation Act 1972.
- (B) The Pooling Partners are each required by Regulation 7(1) of the Investment Regulations to have formulated an investment strategy in accordance with Statutory Guidance issued by the Secretary of State for Housing, Communities and Local Government as issued from time to time.
- (C) Regulation 7(2)(d) of the Investment Regulations requires in particular that each LGPS administering authority sets out its "*approach to pooling investments, including the use of collective investment vehicles and shared services*" in its investment strategy statement.
- (D) Having regard to their obligations under the Investment Regulations, the Pooling Partners have therefore agreed to establish and participate in a formal joint committee, known as the "*Northern LGPS Joint Governance Committee*", pursuant to section 101 and section 102 of the Local Government Act 1972. They have also collaborated in:
 - (i) the joint procurement of Northern Trust as the Pool Custodian;
 - (ii) the creation of Northern LGPS Private Equity Limited Partnership; and
 - (iii) investing alongside each other in GLIL Infrastructure LLP.
- (E) The Pooling Partners intend that the terms of this Agreement shall govern the Northern LGPS Joint Governance Committee by creating arrangements for asset pooling and the sharing of services among the Pooling Partners in order to achieve improved net investment returns.

- (F) The Agreement gives the Pooling Partners equal rights and status except whether otherwise stated.
- (G) Neither the execution of this Agreement nor the carrying on of activities under it is intended by the Pooling Partners to constitute the carrying on of any "regulated activity" under section 19 of the Financial Services and Markets Act 2000 ("FSMA"). In particular, the Northern LGPS Joint Governance Committee shall not constitute the establishment or operation of a Collective Investment Scheme under s235 of FSMA.

AGREED TERMS

1 INTERPRETATION

1.1 The following definitions and rules of interpretation apply in this Agreement.

Business Day means a day other than a Saturday, a Sunday or a public holiday in England when banks in London are open for business.

Chief Executive means the person appointed by a Pooling Partner from time to time under section 4 of the Local Government and Housing Act 1989.

CIPFA Guidance means the guidance published in March 2019 by the Chartered Institute of Public Finance and Accountancy entitled "Preparing the Annual Report: Guidance for Local Government Pension Funds".

Commencement Date means [] 2019.

Financial Year means in the case of the first Financial Year, the period from the Commencement Date to (and including) the following 31 March. For subsequent Financial Years the period between 1 April and 31 March (inclusive) and for the last Financial Year any lesser period necessary.

Fund means the fund maintained by each Pooling Partner in respect of the LGPS.

Host Council means the Pooling Partner appointed in accordance with clause 6 and whose duties are described within that clause.

Investment Regulations means the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016 (SI 2016/946).

Joint Governance Committee means the joint committee formed by this Agreement.

LGPS means the Local Government Pension Scheme established pursuant to regulations made by the Secretary of State in exercise of powers under section 7 and 12 of the Superannuation Act 1972 and the provisions of the PSPA 2013.

Member in this Agreement means a member of the Joint Governance Committee appointed in accordance with clause 3.3.

Monitoring Officer means the person designated by each Pooling Partner for the purposes of section 5 of the Local Government and Housing Act 1989.

Northern LGPS means the collaboration by the Pooling Partners in respect of their pooling of investments and use of collective investment vehicles and shared services, including, without limitation, those collaborations mentioned in Recital D to this Agreement.

Officer Working Group means the group of officers whose terms of reference are set out in Schedule 4.

Pension Board means a local pension board or a joint local pension board within the meaning given to each phrase by regulation 106 of the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) and section 5 of the PSPA 2013.

Pooling Contribution means as defined in clause 7.1.

Pool Custodian means the FCA regulated entity appointed to act as 'master record keeper' for all assets of the LGPS funds administered by the Pooling Partners and to provide additional services to the Pooling Partners as set out in the relevant contracts.

Pooling Partners means the parties to this Agreement and any other administering authorities within the LGPS who become parties to this Agreement after the Commencement Date. Unless the context otherwise specifies references to an action or decision to be taken by a Pooling Partner shall be construed by reference to its pensions committee or equivalent body, and shall not refer to the Members of the Joint Governance Committee representing it under this Agreement.

PSPA 2013 means the Public Service Pensions Act 2013.

S151 officer means the person appointed by each Pooling Partner for the purposes of section 151 of the Local Government Act 1972.

Secretary of State means the Ministry of Housing, Communities and Local Government or such replacement department which has responsibility for the LGPS.

Shared Objectives has the meaning given by clause 4.

Statutory Guidance means the "*Local Government Pension Scheme: Investment Reform Criteria and Guidance*" ("**November 2015 Guidance**") and the "*Local Government Pension Scheme: Guidance on Preparing and Maintaining an Investment Strategy Statement*", issued in September 2016 but as amended in July 2017 ("**July 2017**").

Guidance"), both as amended from time to time.

Terms of Reference means the governing framework concerning the functions and operations of the Joint Governance Committee as set out in Schedule 3.

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality).
- 1.4 The schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the schedules.
- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular include the plural and in the plural include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and includes any subordinate legislation made from time to time under it.
- 1.9 A reference to **writing** or **written** includes faxes and email.
- 1.10 Documents in **agreed form** are documents in the form agreed by the parties and initialed by them or on their behalf for identification.
- 1.11 References to clauses and schedules are to the clauses and schedules of this Agreement; references to paragraphs are to paragraphs of the relevant schedule.
- 1.12 Any words following the terms **include, including, in particular** or **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding them.
- 1.13 Any obligation in this agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.14 Any reference to the title of an officer or any of the Pooling Partners shall include any person holding such office from time to time by the same or any title substituted thereafter or such other officer of the relevant Pooling Partner as that Pooling Partner may from time to time appoint to carry out the duties of the officer referred to.

2 COMMENCEMENT AND TERM

2.1 This Agreement shall commence on the Commencement Date and shall continue until the earlier of the following:

- (a) all of the Pooling Partners agree in writing to its termination; or
- (b) there is only one remaining Constituent Authority who has not exited this Agreement in accordance with clauses 19 or 20.

3 FORMATION OF THE JOINT GOVERNANCE COMMITTEE

3.1 The Pooling Partners by this Agreement hereby form the Joint Governance Committee pursuant to section 101(5) and 102(1) of the Local Government Act 1972 for the purposes of overseeing and reporting on the performance of the Northern LGPS. The Joint Governance Committee shall not be responsible for formulating or revising the investment strategy described by regulation 7 of the Investment Regulations in respect of each or any of the Pooling Partners.

3.2 Meetings of the Joint Governance Committee are subject to the provisions of the Local Government Act 1972 including the provisions on access to information and meetings held in public.

3.3 Unless agreed otherwise, the membership of the Joint Governance Committee shall be as set out in Schedule 3.

3.4 The Joint Governance Committee shall undertake its role and act in accordance with the Terms of Reference set out in Schedule 2 and shall seek and have regard to the advice of officers and any professional advisors appointed in carrying out its functions under this Agreement.

3.5 Every meeting shall be governed by the procedure and requirements set out in Schedule 3.

3.6 A programme of training will be provided to Members having regard to CIPFA Guidance and the training provided to Members in their roles on their respective Pooling Partner pension committees. Any failure to undertake the required training shall be a matter for consideration by the Joint Governance Committee.

4 SHARED OBJECTIVES

4.1 The Shared Objectives of the Joint Governance Committee are to:

- (a) improve the risk-adjusted net investment returns of the Funds of the Pooling Partners;

- (b) enhance stakeholder engagement activities;
- (c) facilitate increased investment in UK infrastructure;
- (d) assist the Pooling Partners in ensuring continued compliance with the Investment Regulations and Statutory Guidance.

4.2 The Shared Objectives will be reviewed by the Joint Governance Committee and the Pooling Partners annually. Where any revisions are agreed by the Joint Governance Committee the revised Shared Objectives shall be sent to all Pooling Partners for their approval.

5 HOST COUNCIL

5.1 The Pooling Partners have agreed, with effect from the Commencement Date, that Tameside will be the Host Council for the Northern LGPS acting on behalf of itself and the Pooling Partners and Tameside agrees to act in that capacity subject to the terms of this Agreement. For the avoidance of doubt, the role of Host Council, unless otherwise agreed by the Joint Governance Committee, includes:

- (a) being the point of contact for the Northern LGPS;
- (b) providing such administrative resources and facilities that may be necessary for the Northern LGPS, preparing an annual budget for the operation of the Joint Governance Committee, holding all Pooling Contributions and paying expenses and costs of the Joint Governance Committee (as agreed with the other Pooling Partners in advance of expenditure being incurred);
- (c) providing such governance and administrative services that may be necessary for the purpose of supporting the Northern LGPS including arranging and clerking of meetings;
- (d) providing training for Members to support their role on the Joint Governance Committee in line with the training programme and in accordance with clause 3.6;
- (e) entering into contracts for supplies and services as required for the purposes of the Northern LGPS.

5.2 Save and except where otherwise required by law, all staff employed by the Host Council who are engaged in providing services under this Agreement shall be employed on the Host Council's relevant terms and conditions of employment and related staff policies including salary structures.

5.3 A replacement Host Council may be appointed by a majority decision of the Pooling Partners provided that the replacement Host Council agrees.

5.4 If the Host Council withdraws from the Northern LGPS pursuant to clause 16 (Voluntary Exit) or clause 17 (Compulsory Exit) then a replacement Host Council will be appointed by unanimous decision of the remaining Pooling Partners. The withdrawing Host Council will not have the right to vote in regard to any such appointment.

6 INDEMNITIES

6.1 The Host Council shall be indemnified by the other Pooling Partners from and against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential loss, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable costs and expenses) arising from the performance of its functions authorised pursuant to clause 5, save in the case of its willful default or fraud but shall bear its proportionate share of all such liabilities as a Pooling Partner.

6.2 Any Pooling Partner who is in material breach of any of the provisions of this Agreement (having failed to remedy such breach after having received notice thereof) shall indemnify the other Pooling Partners from and against all liabilities, costs, expenses, damages and losses, (including but not limited to any direct, indirect or consequential loss, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable costs and expenses) resulting from that breach, without prejudice to any other right or remedy of the other Pooling Partners howsoever arising.

7 COMMITMENT OF THE POOLING PARTNERS AND COSTS

7.1 Subject to clause 7.2, the Pooling Partners agree to pay an equal share of all costs ("**Pooling Contributions**") of services procured by the Host Council on behalf of the Joint Governance Committee in relation to the governance, procurement and administration requirements of the Northern LGPS.

7.2 Unless otherwise agreed, the Pooling Partners shall meet the costs of ad hoc projects to which they are a party rateably, so that if a Pooling Partner is not a party to a project it shall bear none of the costs incurred.

7.3 The Pooling Partners agree to pay the Pooling Contributions to the Host Council on such dates, and at such frequency, as is agreed or otherwise annually as demanded.

7.4 Any charges incurred in respect of investment management (whether internal or external), investment advice or custodian services provided to the Pooling Partners individually shall be attributed to each Pooling Partner by reference to the assets under management of that Pooling Partner or such other contractual arrangement in place

between the Pooling Partner and the relevant third party.

8 ACCOUNTS

- 8.1 The Host Council shall keep proper books of account and shall be responsible for ensuring that full and proper entries of all receipts and payments are promptly recorded in them. The books of account shall be kept at the premises of the Host Council and be made available for inspection by all of the Pooling Partners (who may also take copies). The Host Council shall make available on reasonable request such information as is required by any Pooling Partner to prepare its own accounts or respond to any internal or external audit.

9 INTELLECTUAL PROPERTY

- 9.1 The Pooling Parties agree that any intellectual property developed by any Pooling Partner for the purposes of the Northern LGPS shall be the collective property of the Pooling Partners.

10 REPORTS

- 10.1 As periodically requested by the Joint Governance Committee, the Host Council shall procure that the Pool Custodian will provide to the Joint Governance Committee consolidated reports of the assets of the Funds administered by the Pooling Partners.
- 10.2 To ensure that the Pooling Partners are kept up-to-date with the performance of the Northern LGPS, the Joint Governance Committee shall provide all reports and minutes of its meetings to the Pooling Partners' pensions committees or equivalent.

11 INSURANCE

- 11.1 Where the operation of the Northern LGPS is not covered by any existing insurance of the Pooling Partners and the Joint Governance Committee so requests, the Host Council shall effect and at all times keep in force (for the benefit of the Members of the Joint Governance Committee) such policies of insurance for such amounts as it shall decide. Such policies shall be maintained at the expense of the Pooling Partners and shall be an administration cost of the Northern LGPS for the purposes of clause 7.1.

12 DUTIES AND POWERS

- 12.1 Each Pooling Partner shall at all times:
- (a) use its reasonable skills and endeavours to promote the Northern LGPS for the benefit of the Pooling Partners, and conduct itself in a proper and responsible manner;

- (b) devote such time and attention as the Pooling Partners may decide in writing to be necessary and appropriate to the Northern LGPS;
- (c) comply with all legislation, regulations, professional standards and other provisions as may govern the conduct of the Northern LGPS, or be determined by the Pooling Partners as standards to be voluntarily applied to the Northern LGPS;
- (d) show the utmost good faith to the other Pooling Partners in all transactions relating to the Northern LGPS and give them a true account of, and full information about, all things affecting the Northern LGPS;
- (e) inform the other Pooling Partners without delay on becoming party to any legal proceedings in connection with the Northern LGPS;
- (f) not do or fail to do anything which shall bring any of the other Pooling Partners, or itself, into disrepute;
- (g) obtain all necessary consents sufficient to carry on its duties to the Northern LGPS.

12.2 No action which would otherwise be a breach of this clause shall constitute a breach where the Pooling Partner was required to carry out that action in compliance with a statutory duty or order of any court, tribunal or ombudsman.

13 DELEGATION

13.1 Each Pooling Partner hereby confirms that, prior to the commencement of the Northern LGPS it has put in place (and shall keep in place for the term of this Agreement) such authorisations as are required within its internal governance arrangements to:

- (a) delegate the making of the decisions set out in this Agreement to the Joint Governance Committee; and
- (b) delegate any other matter which is required to comply with the obligations of the Northern LGPS, including delegations to its own officers.

13.2 The Pooling Partners shall review and where necessary amend their delegations throughout the duration of the Northern LGPS to ensure that they can comply with the provisions of this Agreement.

13.3 The Host Council may appoint contractors or agents to undertake tasks, advise on or support the implementation of its functions on behalf of the Joint Governance Committee.

13.4 For the avoidance of doubt, strategic asset allocation will be set by each of the Pooling Partners, but the selection of individual investments and investment managers shall only

carried out by appropriately qualified and experienced officers employed by the Pooling Partners, operating under the legal framework of specialist investment vehicles where appropriate or as more fully set out in Schedule 4.

14 OBLIGATIONS ON POOLING PARTNERS

- 14.1 Without prejudice to the terms of this Agreement, each of the Pooling Partners commits to the implementation of the Northern LGPS within the appropriate legal framework and to use their reasonable endeavours to ensure the success of the Northern LGPS.

15 POLICIES AND PROCEDURES

- 15.1 The Host Council shall prepare any necessary policies and procedures which the Joint Governance Committee decides are appropriate, in accordance with applicable law and regulation, competent authority, and CIPFA Guidance, and having had regard to applicable guidance specific to local government management of funds or accounting and auditing requirements.

16 VOLUNTARY EXIT

- 16.1 Any Pooling Partner (the "**VE Authority**") may exit from the Northern LGPS by giving not less than 12 (twelve) months' written notice to the Host Council of its intention to exit the Northern LGPS and the date of expiry of that notice is the 31 March which next falls after or is coincident with the end of the 12 (twelve) month notice period provided that the Pooling Partners may agree with the VE Authority that a different notice period applies (the "**Exit Date**").

- 16.2 A VE Authority may exit the Northern LGPS and be released from its obligations under this Agreement (other than clause 18) provided that:

- (a) it has satisfied all of its obligations up to the Exit Date;
- (b) it has satisfied its share of the costs and expenses up to the Exit Date, as well as any necessary costs and expenses to facilitate the exit whether or not incurred after the Exit Date;
- (c) it redeems or transitions (subject to liquidity constraints and meeting relevant contractual requirements) its investments from the investment arrangements put in place under the Northern LGPS as agreed appropriate by the Joint Governance Committee;
- (d) its representatives on the Joint Governance Committee resign on or before the Exit Date.

- 16.3 With effect from the date of the notice given by the VE Authority pursuant to clause 16.1

the Members nominated by the VE Authority for the purposes of clause 3.3 shall cease to have any voting rights for the purposes of the Joint Governance Committee and the VE Authority shall cease to be a Pooling Partner.

- 16.4 For the avoidance of doubt, the VE Authority shall remain liable to make the Pooling Contributions that become due prior to the Exit Date.

17 COMPULSORY EXIT

- 17.1 The Pooling Partners (other than the CE Authority) may by majority decision compulsorily require any Pooling Partner (the "**CE Authority**") to leave the Northern LGPS, by the Host Council (or in the case of the Host Council being the CE Authority, any other Pooling Partner), giving the CE Authority written notice if the CE Authority:

- (a) commits any serious breach or persistent breaches of this Agreement;
- (b) fails to pay any money owing by it to the Host Council within 28 (twenty-eight) days of a written request for payment from the Host Council;
- (c) fails to account for, or pay over or refund any money received and belonging to the Pooling Partners within 28 (twenty-eight) days after being so required by notice from the Host Council;
- (d) wilfully neglects, refuses or omits to perform its duties, obligations and responsibilities under this Agreement; or
- (e) is guilty of conduct which, in the reasonable opinion of the other Pooling Partners, is likely to have a serious adverse effect on the Northern LGPS;

provided that in each case the CE Authority is first given 28 days following receipt of the written notice to remedy the breach or issue described in paragraphs (a) to (e) and the CE Authority has failed to remedy such breach or issue or to take reasonable steps to do so.

- 17.2 The effective date of the CE Authority being required to leave the Northern LGPS is the 31 March which next falls after or is coincident with the period of 12 (twelve) months after the notice given in clause 17.1 above provided that the other Pooling Partners may notify the CE Authority that a different notice period applies (the "**Compulsory Exit Date**").

- 17.3 The CE Authority shall exit the Northern LGPS from the Compulsory Exit Date and must have, prior to the Compulsory Exit Date:

- (a) satisfied all of its obligations up to the Compulsory Exit Date;
- (b) satisfied its share of the costs and expenses up to the Compulsory Exit Date, as well as any necessary costs and expenses to facilitate the exit whether or not

incurred after the Compulsory Exit Date;

- (c) redeemed or transitioned (subject to liquidity constraints and meeting relevant contractual requirements) its investments from the Northern LGPS investment arrangements as agreed to be appropriate by the Joint Governance Committee;
- (d) ensured that its representatives on the Joint Governance Committee have resigned on or before the Compulsory Exit Date.

17.4 With effect from the date of the notice given by the Host Council to the CE Authority pursuant to clause 17.1 the Member (and any nominated deputy for the purposes of clause 3.4) nominated by the CE Authority for the purposes of clause 3.3 shall cease to have any voting rights for the purposes of the Joint Governance Committee and shall cease to be a Pooling Partner.

17.5 For the avoidance of doubt, the CE Authority shall remain liable to make the Pooling Contributions that become due prior to the Compulsory Exit Date and liable to the continuing liability provisions of clauses 6 and 18.1.

18 FURTHER PROVISIONS RELATING TO A VE AUTHORITY OR A CE AUTHORITY

Continuing liability

18.1 Where any Pooling Partner exits from this Agreement in accordance with clause 16 or 17 it shall remain liable to the extent it would have been were it still party to this Agreement for any acts, omissions, costs and expenses arising from acts taken or decisions made during the period in which that Pooling Partner was a party to this Agreement.

19 NEW POOLING PARTNER

19.1 The Pooling Partners shall consider applications from other administering authorities of funds within the LGPS to join the Northern LGPS (a "New Member Application").

19.2 A New Member Application will be considered on the merits of its business case and the conditions which the Pooling Partners consider appropriate from time to time.

19.3 A New Member Application will only be approved by the Pooling Partners at their absolute discretion and, subject to regulation 8 of the Investment Regulations, there shall be no obligation under the terms of this Agreement for a New Member Application to be accepted.

19.4 Any Pooling Partner who enters into this Agreement after the Commencement Date shall only have liability for any acts, omissions, costs and expenses arising from acts taken or decisions made from the date of its admission to the Northern LGPS.

19.5 If a New Member Application is approved, the parties shall entered into a deed of admission to the Northern LGPS in the form set out in Schedule 5.

20 CONFIDENTIALITY

20.1 For the purposes of this Agreement, **Confidential Information** means, any information which has been certified as exempt information in accordance with Section 100A(1) of the Local Government Act 1972 and all confidential information (however recorded or preserved) disclosed by a Pooling Partner or its representatives or advisers to another Pooling Partner and its representatives or advisers (except where by law the information cannot be retained as confidential) concerning:

- (a) any information relating to the prospective business, technical processes, computer software or intellectual property rights of a Pooling Partner;
- (b) all documents, papers and property that may have been made or prepared by, or at the request of, any Pooling Partner and which are marked as being exempt information or confidential and which come into any Pooling Partner's possession or under its control in the course of the Northern LGPS; and
- (c) compilations of two or more items of such information and all information that has been, or may be, derived or obtained from any such information which, at any time, comes into any Pooling Partner's possession or under its control in the course of activities connected with the Northern LGPS and which the Joint Governance Committee regards or could reasonably be expected to regard as confidential, whether or not such information is, in itself, confidential, marked as "confidential" or reduced to tangible form.

20.2 Save as provided otherwise in this Agreement either expressly or by implication, each Pooling Partner undertakes that it shall not, at any time, disclose to any person any Confidential Information of the other Pooling Partners and shall use its reasonable endeavours to keep all Confidential Information of the other Pooling Partners confidential (whether it is marked as such or not) except as permitted by clause 20.3.

20.3 Each Pooling Partner may disclose the other Pooling Partner's Confidential Information in the following circumstances:

- (a) to its representatives or advisers who need to know such information for the purposes of carrying out the Pooling Partner's obligations under or in connection with this Agreement. Each Pooling Partner shall ensure that its representatives or advisers to whom it discloses the other Pooling Partner's Confidential Information comply with this clause;
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority including an ombudsman having the force of law;

- (c) which Pooling Partner can demonstrate is already generally available and in the public domain otherwise than as a result of a breach of this clause; or
- (d) any disclosure to enable a determination to be made under clause 31 (Dispute Resolution).

21 FREEDOM OF INFORMATION

21.1 Each Pooling Partner acknowledges that the other Pooling Partners and the Joint Governance Committee are subject to the requirements of the Freedom of Information Act 2000 ("FoIA") and each Pooling Partner shall where reasonable assist and cooperate with the other Pooling Partners (at their own expense) to enable the other Pooling Partners to comply with these information disclosure obligations.

21.2 Where a Pooling Partner receives a request for information under the FoIA in relation to information which it is holding on behalf of any of the other Pooling Partners in relation to the Northern LGPS, it shall:

- (a) transfer the request for information to the other Pooling Partners as soon as practicable after receipt and in any event within 2 (two) Business Days of receiving a request for information;
- (b) provide the other Pooling Partners with a copy of all information in its possession or power in the form that the other Pooling Partner(s) reasonably require(s) within 10 (ten) Business Days (or such longer period as the Pooling Partner(s) may specify) of the Pooling Partner(s) requesting that information; and
- (c) provide all necessary assistance as reasonably requested by the other Pooling Partner(s) to enable the Pooling Partner to respond to a request for information within the time for compliance set out in the FoIA.

21.3 Where a Pooling Partner receives a request for information under the FoIA which relates to this Agreement or the Northern LGPS it shall:

- (a) advise the person making the request that the information is held by another public authority (being the Joint Governance Committee) and that the request has been passed to that public authority to respond;
- (b) transfer the request for information to the Host Council on behalf of the Joint Governance Committee as soon as practicable after receipt and in any event within 2 (two) Business Days of receiving a request for information;
- (c) provide the Host Council with a copy of all information in its possession or power

in the form that the Host Council reasonably requires within 10 (ten) Business Days (or such longer period as the Host Council may specify) of the Pooling Partner being requested to provide that information; and

- (d) provide all necessary assistance as reasonably requested by the Host Council to enable the Host Council to respond to a request for information on behalf of the Joint Governance Committee within the time for compliance set out in the FoIA.

21.4 The Pooling Partners or the Host Council shall be responsible for determining in their absolute discretion whether any information requested under the FoIA:

- (a) is exempt from disclosure under the FoIA; or
- (b) is to be disclosed in response to a request for information.

21.5 Each Pooling Partner acknowledges that the other Pooling Partners and the Joint Governance Committee may be obliged under the FoIA to disclose information:

- (a) without consulting with the other Pooling Partners where it has not been practicable to achieve such consultation; or
- (b) following consultation with the other Pooling Partners and having taken their views into account.

22 DATA PROTECTION

22.1 The Pooling Partners shall comply with the Data Protection Act 2018 and the General Data Protection Regulation (EU 2016/679) to the extent that such legislation applies to this Agreement.

23 DISSOLUTION

23.1 No Pooling Partner shall be capable of dissolving the Joint Governance Committee unilaterally by means of a notice.

23.2 The Northern LGPS and this Agreement shall be terminated upon the unanimous agreement of all of the Pooling Partners.

23.3 Each Pooling Partner shall act in good faith in the wind up of the Joint Governance Committee following the unanimous decision to dissolve it as soon as reasonably practicable thereafter, and all costs and expenses shall be borne equally by the Pooling Partners.

24 NO PARTNERSHIP

24.1 Nothing in this Agreement shall constitute the carrying on of a partnership between any of the Pooling Partners.

25 ENTIRE AGREEMENT

- 25.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 25.2 Each Pooling Partner acknowledges that, in entering into this Agreement it has not relied on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.
- 25.3 Each Pooling Partner agrees that it shall have no claim for innocent or negligent misrepresentation (or negligent misstatement) based on any statement in this agreement.
- 25.4 Nothing in this clause shall limit or exclude any liability for fraud.

26 NOTICES

- 26.1 Any notice, demand or communication in connection with this Agreement will be in writing and may be delivered by hand, post, facsimile or email addressed in writing in accordance with this clause at an address to which notices, invoices and other documents may be sent. The notice, demand or communication will be deemed to have been duly served:
- (a) if delivered by hand during business hours, at the time of delivery;
 - (b) if delivered by post, 48 hours after being posted (excluding Saturdays, Sundays and public holidays);
 - (c) if delivered by facsimile during business hours, at the time of transmission, provided that a confirming copy is sent by first class post to the other party within 24 hours after transmission; or
 - (d) if delivered by email or other electronic form of communication during business hours, at the time of transmission provided that a confirming copy is sent by first class post to the other party within 24 hours after transmission.
- 26.2 Where notice is served by hand, facsimile or email outside business hours, it will be deemed to have been served on the next business day.

27 CONTRACTS (THIRD PARTY RIGHTS)

- 27.1 A person who is not a party to this Agreement may not enforce any of its terms, conditions or provisions and the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

28 SEVERANCE

- 28.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.
- 28.2 If one Pooling Partner gives notice to the other Pooling Partners of the possibility that any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the Pooling Partners shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended result of the original provision.

29 AMENDMENTS

- 29.1 No amendment to this Agreement shall be binding unless it is in writing and signed by a duly authorised representative of each of the Pooling Partners and expressed to be for the purpose of such amendment.

30 GOVERNING LAW AND JURISDICTION

- 30.1 This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 30.2 Each party irrevocably agrees that the courts of England and Wales have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement, its subject matter or formation.

31 ALTERNATIVE DISPUTE RESOLUTION

- 31.1 The Pooling Partners agree:
- (a) to pursue a positive approach towards dispute resolution with an objective of reaching a consensus without formal dispute resolution and/or legal proceedings and of maintaining a strong working relationship between the Pooling Partners;
 - (b) that any dispute between the Pooling Partners in relation to matters covered by this Agreement will be referred to in the first instance to the Chief Executives of the Pooling Partners who may, at their sole discretion, delegate the dispute to the appropriate senior officer within 10 Business Days of written notice of the

dispute;

- (c) that if the Chief Executives or their delegates are not able to resolve the dispute within 5 Business Days of meeting then the Host Council may refer the matter to a mediation facilitated by the Local Government Association or to a suitably qualified and independent person, as recommended by the respective Chief Executives and as agreed by the Pooling Partners;
- (d) that where any dispute is agreed to be of a legal or technical nature the parties to the dispute may (but not must) jointly take the opinion of an appropriate expert including opinion of senior legal counsel where appropriate. Such expert opinion must be instructed within 10 days of referral to Chief Executives under sub-clause (b) following which the opinion should be delivered within a further 10 days unless the nature and/or details of the dispute or opinion dictate that an alternative timeframe needs to be followed;
- (e) that, if after exhausting other methods of dispute resolution, one of the Pooling Partners commences legal proceedings then this will be subject to the exclusive jurisdiction of the Courts of England and Wales.

All costs are borne equally between the Pooling Partners which are party to the dispute unless agreed otherwise by the Joint Governance Committee or ordered by the Courts.

This Agreement has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

IN WITNESS of which this document has been executed and, on the date set out above, delivered as a deed.

EXECUTED as a deed, and delivered when dated, by affixing the common seal of **TAMESIDE METROPOLITAN BOROUGH COUNCIL**, in the presence of:

Authorised Signatory:

EXECUTED as a deed, and delivered when dated, by affixing the common seal of **CITY OF BRADFORD METROPOLITAN BOROUGH COUNCIL**, in the presence of:

Authorised Signatory:

EXECUTED as a deed, and delivered when dated, by affixing the common seal of **WIRRAL METROPOLITAN BOROUGH COUNCIL**, in the presence of:

Authorised Signatory:

Schedule 1

Matters Reserved to the Pooling Partners in their respective capacities

- 1 Appointment, termination or replacement of the Pool Custodian following the making of a recommendation by the Joint Governance Committee.
- 2 Formulation, approval or revisions of each respective Pooling Partner's investment strategy for the purposes of regulation 7 of the Investment Regulations.
- 3 Admission of a new administering authority within the LGPS to the Northern LGPS as a Pooling Partner (pursuant to clause 19).
- 4 Amendments of this Agreement (pursuant to clause 29).
- 5 Termination of this Agreement (pursuant to clause 23).
- 6 Approval of the initial Shared Objectives and any subsequent amendment (pursuant to clause 29).
- 7 Determination of the timing of the transition of any part of the Pooling Partner's Funds into a new investment arrangement recommended by the Officer Working Group.
- 8 Setting of policy on how social, environmental and corporate governance considerations are taken into account in the selection, non-selection, retention and realisation of investments.

Schedule 2

Joint Governance Committee Terms of Reference

SCOPE

- 1 Subject to the terms of the Agreement, the Joint Governance Committee shall undertake those matters which are not Matters Reserved to the Pooling Partners as set out in Schedule 1.

PURPOSE

- 2 The primary purposes of the Joint Committee are to:
 - 2.1 exercise oversight over the investment performance of the Pooling Partners' Funds;
 - 2.2 deliver the Shared Objectives;
 - 2.3 agree on any recommended changes to the Shared Objectives from time to time to refer to the Pooling Partners; and
 - 2.4 report to the Pooling Partners quarterly (and at any other time when the Joint Governance Committee considers it to be necessary) on the matters within their remit below.

REMIT

- 3 Monitoring and benchmarking performance against key performance indicators and costs and reporting back to the Pooling Partners.
- 4 Making recommendations on the appointment, replacement or termination of the Pool Custodian to the Pooling Partners.
- 5 Oversight of responsible investment activities (including ethical, social and governance matters and voting rights) of the Pooling Partners and making recommendations to the Pooling Partners as to any changes.
- 6 Engagement with the Pooling Partners to help drive efficiencies in investment management, research or administration.
- 7 Nominating representatives to national structures as appropriate (for example any LGPS cross-pool forum or national infrastructure board).
- 8 Overseeing staffing requirements of the Northern LGPS investment vehicles.
- 9 Delegation of tasks to the Officer Working Group, including the selection of external investment managers, preparation of reports and draft documents and the responding to Government or other consultations].
- 10 Oversight of Northern LGPS investment vehicles and reviewing opportunities for collaborative working with other investors (including other LGPS pools).

- 11 Appointing and replacing service providers and advisers to the Joint Governance Committee.
- 12 Liaison with Pension Boards as appropriate in line with CIPFA Guidance, and Statutory Guidance.
- 13 Reporting on the performance of the Northern LGPS, its costs and other activities, but not limited to the Ministry for Housing, Communities and Local Government, the Scheme Advisory Board and the general public.
- 14 Applying any processes or policies, for example in relation to conflicts of interest that are assigned to the Joint Governance Committee under this Agreement by the Pooling Partners.
- 15 Monitoring the implementation and effectiveness of the Northern LGPS policies and procedures and initiating reviews of these with the Host Council where required.
- 16 Seeking advice from officers and professional advisers where necessary.
- 17 Overseeing any shared costs of the Joint Governance Committee.

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Schedule 3

Joint Governance Committee Procedure

1 MEMBERSHIP

- 1.1 The membership of the Joint Governance Committee shall consist of the chair and deputy-chair of each of the Pooling Partners' pension committees or such alternative persons nominated by the Pooling Partners.
- 1.2 In addition up to three trade union representatives may be appointed after being nominated by the Trades Union Council and subject to the agreement of the Pooling Partners. The trade union representative members shall have the appropriate technical skills to represent scheme members' interests in investment matters and will be selected to represent the interests of members from their respective geographical regions.
- 1.3 The Joint Governance Committee shall not include any non-voting or co-opted members.

2 MEETINGS

- 2.1 Meetings shall ordinarily be held four times per municipal year. The anticipated schedule of meetings and the locations in which they will be held will be agreed in advance.
- 2.2 A meeting may be held at such time and place as the Chair of the Joint Governance Committee thinks fit.
- 2.3 A meeting of the Joint Governance Committee may be called by a proper officer of the Host Council on the request of the Chair. Members must declare any conflict of interest in respect of any business being conducted at the meeting which would likely to be regarded to prejudice the exercise of a person's function as a participant in the meeting.
- 2.4 The Chair is responsible for the running of meetings. The Chair shall invite Members expressing a desire to speak in turn. All discussion and debate shall be held through the Chair and the Chair may draw a discussion to a vote at any time when he/she considers that every Member has been given a fair opportunity to speak.
- 2.5 Members may participate in meetings via telephone subject to the agreement of The Chair.
- 2.6 Minutes will be kept of all meetings. The Chair will sign the minutes of the proceedings at the next suitable meeting.
- 2.7 Notice of meetings

- (a) A notice of meeting specifying the place, date and time of the meeting and containing a statement of the matters to be discussed at the meeting, shall be served on all of the Members of the Joint Governance Committee by the appropriate governance officer of the Host Council;
- (b) Subject to clause 2.7(c), notice of each meeting, copies of the agenda and any reports to be presented at the meeting, shall be given to all Pooling Partners by the Host Council no later than 7 clear days before the date of the meeting. The Pooling Partners shall ensure that a minimum of five clear days' notice of all meetings is given in accordance with their normal procedures for notification of Council meetings and all papers made available at all of the Pooling Partners head offices for inspection for those five days unless certified as exempt or confidential in which case agendas and any non-certified items are made available only.
- (c) If a meeting is required to be held with less than 5 days' notice, the Chair must agree it is required urgently, and may in exceptional circumstances approve the shortened notice period and allow as much notice as possible to be given. Notice should be given in the same manner, and the documents should be made available to all of the Pooling Partners for as many days as practicable before the meeting.

2.8 Exclusion of the public and press

- (a) Where any item to be discussed forms exempt information the Chair shall move that the public and press are excluded from the meeting for the duration of the discussion and voting on that item. Motions to exclude the press and public do not require to be seconded and shall be determined by simple majority vote of the Members present.
- (b) Where the press and public are excluded under clause 2.8(a) above the Chair may invite any person to remain in the meeting where he/she considers it to be necessary or appropriate to do so and any officers of the Pooling Partners present shall be presumed to be invited to remain unless the Chair specifies otherwise.
- (c) Any person may be excluded from a meeting or required to leave a meeting where in the opinion of the Chair he/she is causing a disturbance to the running of the meeting and has not desisted from so doing following a request; or where any person is so disruptive that his/her conduct if allowed to remain would prevent the meeting from proceeding in a fair and acceptable manner.

2.9 The Joint Governance Committee may, through the Chair, invite any person to speak at a meeting.

- 2.10 Officers presenting reports to the Joint Governance Committee may be asked questions following such presentation.
- 2.11 Section 151 Officers and Monitoring Officers (and in their absence their deputies) of any Pooling Partner are entitled to attend all meetings including any part of any meeting which is closed to the public and press.

3 QUORUM

- 3.1 The quorum shall be three Members including at least one Member from each of the Pooling Partners.
- 3.2 Where a quorum is not present within 15 minutes of the start of the meeting and the Chair has not been notified that one or more Members have been delayed but will be attending, the meeting shall not be held and the Host Council will be asked to schedule and give notice of a replacement meeting.
- 3.3 Where, during any meeting there is no quorum present, then the meeting will adjourn immediately. If the Chair has been unable to ascertain within 15 minutes that the quorum can be restored the remaining business will be considered at another time and date fixed by the Chair.

4 CHAIR AND VICE CHAIR(S)

- 4.1 The Chair shall be an elected Member of one of the Pooling Partners and shall be appointed by unanimous vote for a term of 12 calendar months.
- 4.2 Two Deputy Chairs shall be appointed by unanimous vote for a term of 12 calendar months. The Deputy Chairs shall be representatives of different Pooling Partners to each other and to that of the Chair.
- 4.3 In the absence of the Chair, either or both Deputy Chairs (by agreement) shall be entitled to exercise all of the functions of the Chair.
- 4.4 The decision of the Chair of the meeting on all points of procedure and order and the Chair's interpretation of any rule in this schedule shall be final and no debate may ensue thereon. The Chair shall be entitled to take the advice of a governance officer in interpreting any rule or objection on procedure.
- 4.5 The Chair may be assisted during meetings by a governance officer on procedural matters and such administrative officers as the Chair considers appropriate. Such governance and secretarial officers shall be entitled to remain in the meeting where the public and press are excluded.

5 AGENDA

- 5.1 An agenda shall be produced in advance for each meeting by the Host Council following consultation with the Chair.
- 5.2 The agenda for each meeting shall contain as the first substantive item the approval of the minutes of the previous meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. Any matters arising from minutes of the previous meeting shall be regarded as items on the agenda of the current meeting but only if they have been specified as items of business in the notice summoning the meeting.
- 5.3 The Pooling Partners may ask the Chair to include any matter on the agenda which they consider should be discussed by the Joint Governance Committee.
- 5.4 The decision on whether to allow discussion on any other matter not on the agenda of a meeting at that meeting shall be made by the Chair.

6 MOTIONS

- 6.1 Any Member may propose a motion. All motions must be seconded. Motions which are opposed shall be put to a vote in accordance with the voting provisions of this schedule.
- 6.2 A Member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of the provisions of this Schedule, or the law or other competent authority. The Member must indicate the provision or law or regulation and the way in which he/she considers it has been broken. The ruling of the Chair on the matter will be final. The Chair may take advice on the point of order from the appropriate officer.

7 VOTING

- 7.1 The Chair shall seek consensus wherever possible however where a vote is required the provisions of this section shall apply.
- 7.2 Each Member present will have one vote and voting will be by means of a show of hands. In the event of a tied vote, the Chair shall have a second or casting vote.
- 7.3 All decisions will be determined by simple majority.
- 7.4 In the event that a vote is taken, the voting positions and any abstentions of members will be recorded in the minutes.

8 SUB-COMMITTEES AND WORKING GROUPS

- 8.1 The Joint Governance Committee shall form such sub-committees and working groups as it considers expedient to performing its function. The Joint Governance Committee shall at the time of forming sub-committees or working groups set out the remit of the sub-committees or working groups, what the sub-committees or working groups are

required to deliver and the timescale for that delivery.

- 8.2 Sub-committees and working groups shall be entitled to request the input and support of officers in the same manner as the Joint Governance Committee.
- 8.3 Each sub-committee and working group shall appoint a chair for that sub-committee or working group, who is to be one of the members of the sub-committee or working group.
- 8.4 Working groups may invite any person who is not a member to join the group in order to assist in carrying out its function.
- 8.5 The Chairs of sub-committees and working groups shall report to Joint Governance Committee at each meeting of that committee on the progress of the matters within their remit.
- 8.6 Sub-committees and working groups may be disbanded at any time on the vote of the Joint Governance Committee.
- 8.7 The provisions of paragraphs 5 to 7 (Agenda, Motions and Voting) of this Schedule shall apply to any sub-committee and working group meetings.

9 REMUNERATION

- 9.1 The Host Authority and/or Pooling Partners shall arrange for the appointment of an independent remuneration panel to advise them on appropriate levels of special responsibility allowances to be payable to their Councillor Members of the Joint Governance Committee in respect of duties and responsibilities undertaken as Members of the Joint Governance Committee. A commensurate allowance will be payable to all non-elected Members of the Joint Governance Committee in the interests of fairness and consistency.

Schedule 4

Officer Working Group Terms of Reference

MEMBERSHIP

The Officer Working Group shall consist of the Directors of each of the Pooling Partners' Funds (or their nominated representatives) supported by such officers of the Pooling Partners as may be required from time to time. Such nominated officers (and any substitutes or alternates designated by the Pooling Partners) must have the appropriate technical skills to advise the Joint Governance Committee on those matters within its own Terms of Reference as set out in Schedule 2. The role of the Officer Working Group is to provide a central resource for advice, assistance, guidance and support for the Joint Governance Committee. The Officer Working Group shall operate on the understanding that any recommendations made to the Joint Governance Committee shall be made on a unanimous basis.

REMIT

The Officer Working Group will have specific responsibility for the following tasks:

INVESTMENT MANAGER AND EXTERNAL INVESTMENT RELATIONS

- 1 Due diligence on, procurement, and selection of external investment management arrangements by the Pooling Partners and reporting outcomes to the Joint Governance Committee.
- 2 Informing the Joint Governance Committee of any amendments to the terms of agreements with external managers including (without limitation) by reference to investment objectives, restrictions, fee levels, reporting and key personnel changes, delegations of functions to a third party or associates.
- 3 Researching coinvestment opportunities for and formulation of proposals to the Joint Governance Committee.
- 4 Recommending the resolution of any conflicts of interest issues in relation to external managers (eg in relation to investor committees in limited partnerships where the Pooling Partners may be invested).
- 5 Identifying areas for improvement and cost reductions by external managers or the Pool Custodian.
- 6 Keeping investment structures under review and making recommendations to the Pooling Partners from time to time.

REPORTING

- 7 Determining documentation and presenting information required from external managers for the meetings of the Joint Governance Committee.
- 8 Considering the requirements for measuring and reporting on cost savings, benchmarking and preparing Northern LGPS reports for the Joint Governance Committee on the same to the Minister for Housing, Communities and Local Government and the LGPS Scheme Advisory Board.
- 9 Monitoring the performance of external investment managers, the Pool Custodian, keeping third party performance under constant review and reporting to the Joint Governance Committee.

JOINT GOVERNANCE COMMITTEE OPERATIONAL SUPPORT

- 10 Making recommendations on an annual strategic business plan for the Northern LGPS to the Pooling Partners.
- 11 Determining the budget necessary to implement the strategic business plans and liaising with each Pooling Partner's Section 151 Officer prior to making a final recommendation of the budget to the Joint Governance Committee.
- 12 Reviewing significant commercial, legal and media issues affecting the provision of services to the Northern LGPS.
- 13 Reviewing policy or process issues and recommending appropriate changes to the Joint Governance Committee.
- 14 Recommending and implementing a training plan for the Joint Governance Committee, Pooling Partners' Pension Committee members, Section 151 and Monitoring Officers and Pension Boards.
- 15 Recommending a communication strategy in relation to the Northern LGPS, including the drafting and reviewing of external communications including press releases.
16. Reviewing and approving a Data Protection Policy and any GDPR requirements.

Schedule 5

Deed of Adherence

This Agreement is made on

20[••]

- (1) **TAMESIDE METROPOLITAN BOROUGH COUNCIL** of Guardsman Tony Downes House, 5 Manchester Road, Droylsden, Manchester M43 6SF ("**Tameside**");
- (2) **CITY OF BRADFORD METROPOLITAN BOROUGH COUNCIL** of Aldermanbury House, 4 Godwin street, Bradford, BD1 2ST ("**Bradford**"); and
- (3) **WIRRAL METROPOLITAN BOROUGH COUNCIL** of Castle Chambers, 43 Castle Street, Liverpool L2 9SH ("**Wirral**")
(**TOGETHER** the "**Existing Pooling Partners**")
- (4) [**NAME OF NEW LOCAL AUTHORITY**] of [ADDRESS] (the "**New Pooling Partner**").

BACKGROUND

This Agreement is supplemental to a Joint Governance Committee agreement dated [DATE] and entered into by the Existing Pooling Partners (the "**Agreement**").

The New Pooling Partner wishes to be admitted as a new Pooling Partner pursuant to the Agreement.

OPERATIVE PROVISIONS

- 1 The definitions contained in the Agreement will have the same meanings in this Deed save where the context otherwise requires.
- 2 The New Pooling Partner confirms that it has been given and read a copy of the Agreement and covenants with each of the Existing Pooling Partners to perform and to be bound with effect from the date of this Deed by all the terms of the Agreement as if the New Pooling Partner was a party to the Agreement as a Pooling Partner. By executing this Deed all parties confirm that it is the intention that the New Pooling Partner shall be bound by and entitled to the benefit of the provisions of the Agreement as if it was a party to the Agreement and named in the Agreement as a Pooling Partner.
- 3 This Deed may be executed in any number of counterparts, each of which when executed will be an original but together will constitute one and the same agreement.
- 4 This Deed will be governed by and construed in accordance with the laws of England and Wales.
- 5 This document is executed as a deed and delivered on the date stated at the beginning of

this Deed.

IN WITNESS of which this document has been executed and, on the date set out above, delivered as a deed.

EXECUTED as a deed, and delivered when dated, by affixing the common seal of **TAMESIDE METROPOLITAN BOROUGH COUNCIL**, in the presence of:

Authorised Signatory:

EXECUTED as a deed, and delivered when dated, by affixing the common seal of **CITY OF BRADFORD METROPOLITAN BOROUGH COUNCIL**, in the presence of:

Authorised Signatory:

EXECUTED as a deed, and delivered when dated, by affixing the common seal of **WIRRAL METROPOLITAN BOROUGH COUNCIL**, in the presence of:

Authorised Signatory:

EXECUTED as a deed, and delivered when dated, by affixing the common seal of **[NAME OF NEW POOLING PARTNER]**, in the presence of:

Authorised Signatory:



Standards and Constitutional Oversight Committee
Thursday, 26th September 2019

REPORT TITLE:	Review of Scrutiny Arrangements
REPORT OF:	Chair of Business Overview and Scrutiny Committee

REPORT SUMMARY

The Annual Meeting of Council on the 14th May 2019 agreed the following resolution:

(b) Business Overview & Scrutiny Committee conduct a review of the Council’s overview and scrutiny committee arrangements, in consultation with the Committee Chairs and group representatives, to consider the number of committees and their respective terms of reference to report back on suggested steps to improve the arrangement in sufficient time for them to be received and considered by the Standards and Constitutional Oversight Committee at its meeting in September.”

The Chair of the Business Overview and Scrutiny Committee established a Scrutiny Review Panel and hosted an all Member workshop This report provides the outcomes of the review of scrutiny arrangements undertaken by the Business Overview & Scrutiny Committee.

RECOMMENDATION/S

That the Committee is recommended:

1. To recommend to full Council that:
 - a. the recommendations of this review of scrutiny arrangements are approved and included in any new governance model.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 To fulfil the Council resolution to review current scrutiny arrangements and enable the feedback and recommendations of the Business Overview & Scrutiny Committee Review Group to be considered as part of the wider governance review undertaken by the Standards and Constitutional Oversight Committee.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 The review of scrutiny arrangements was carried with the engagement of Members. The review findings and recommendations reflect the views of all Members involved.

3.0 BACKGROUND INFORMATION

- 3.1 In order to fulfil the Council resolution, the Chair and Party Spokespersons of the Business Overview & Scrutiny (O&S) Committee formed a Review Panel to consider the scope and approach of the review and to ensure that all non-executive Members were able to comment on current and future scrutiny arrangements. This scope was agreed at a meeting of the Chair and Party Spokesperson held on 12th June 2019.
- 3.2 The Review Panel commissioned the Scrutiny Team to carry out a research exercise to explore governance including scrutiny arrangements at authorities with statistical similarities to Wirral and the experiences of Councils in the UK where committee systems had been introduced. The briefing pack was approved by Chairs and Party Spokespersons of all four O&S Committees and circulated to all non-executive Members in preparation for the workshop. The Scrutiny Review Workshop for all non-executive members was held to review current scrutiny arrangements in Wirral and discuss future options for scrutiny.
- 3.3 Two separate reviews were directed by Council; the Review of Scrutiny outlined in this report and the Governance Review, also reported at this Standards and Constitutional Committee. As both are related to Council governance arrangements the two reviews have implications for each other.

4.0 FINANCIAL IMPLICATIONS

- 4.1 There are direct costs associated with making a change from one governance system to another. The Centre for Public Scrutiny (CfPS) have reported that the Government has estimated that the costs of moving from one system to another can range from £70,000 to £250,000.

5.0 LEGAL IMPLICATIONS

- 5.1 Local authorities in England operating executive arrangements are required by sections 9F to 9FI of the Local Government Act 2000 as amended by the Localism Act 2011 to establish overview and scrutiny committees.
- 5.2 The legislation recognises that authorities are democratically elected bodies who are best placed to determine which overview and scrutiny arrangements best suit their own individual needs, and so gives authorities a great degree of flexibility to decide which arrangements to adopt.
- 5.3 Councils who adopt the committee system are not required to have overview and scrutiny but may do so if they wish.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 There are significant implications for the Council in changing its decision-making structure to a new form of governance. Across the Council, the change to potentially different ways of working and briefing with Members will require greater and different input from officers. The extent of these resource implications in the longer term will vary dependent on the number, frequency and timing of meetings.
- 6.2 It is likely that a change in governance will impact directly on key enabling services such as the Scrutiny Team and Democratic Services. Key factors such as retention of a separate overview and scrutiny system or not and the number and frequency of meetings will have a direct bearing on this and so costs cannot be estimated at this time.

7.0 RELEVANT RISKS

- 7.1 A change in the form of governance arrangements will represent a key and integral element of the overall organisational vision of the Council and how it interacts with other stakeholders. That process of change will raise a number of associated risks to be identified and managed as part of the development process and implementation.
- 7.2 The current model of Overview and Scrutiny includes key elements such as monitoring the performance of partner organisations in Wirral and regional oversight through the Liverpool City Region Overview & Scrutiny that provide value to both Council operations and outcomes for Wirral residents. There is a risk that these could be reduced if not considered in the full governance review.
- 7.3 A risk is that a change to the form of governance arrangements fails to bring with it the desired change in culture.

8.0 ENGAGEMENT/CONSULTATION

Further to approval of the scoping document and briefing papers by the chair and party spokespersons of the Business Overview & Scrutiny Committee an all member engagement session was held at a workshop on 17th July 2019.

9.0 EQUALITY IMPLICATIONS

9.1 There are no identified equality impact implications directly associated with the proposals set out in this report.

REPORT AUTHOR: **Nancy Clarkson**
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APPENDICES

Appendix 1 – Review of Scrutiny Arrangements Report

Appendix 2 – Review Briefing Pack including Scoping Document

Appendix 3 – Presentation to the Member workshop

BACKGROUND PAPERS

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Council	14 th May 2019



Review of Scrutiny Arrangements

Report of the Business Overview & Scrutiny Committee

September 2019



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1.0 INTRODUCTION

At the meeting of Council on 14th May 2019, the following resolution was agreed within agenda item 13 'Appointment, Constitution and Chairs of Committees 2019/20':

"That this is subject to the Council charging the:

(a) Standards and Constitutional Oversight Committee to conduct a review of the governance arrangements of the Council, with the objective to produce, in September 2019, an interim report on options and preferred outline for further consideration; and

(b) Business Overview & Scrutiny Committee conduct a review of the Council's overview and scrutiny committee arrangements, in consultation with the Committee Chairs and group representatives, to consider the number of committees and their respective terms of reference to report back on suggested steps to improve the arrangement in sufficient time for them to be received and considered by the Standards and Constitutional Oversight Committee at its meeting in September."

In order to fulfil the above Council resolution, the Chair and Party Spokespersons of the Business Overview & Scrutiny (O&S) Committee formed a Review Panel to consider the review scope and approach in order to ensure that all non-executive Members were able to comment on current and future scrutiny arrangements. This scope was agreed at a meeting of the Chair and Party Spokesperson held on 12th June 2019, with the review carried out between June and September 2019.

The key focus of the review was a workshop held for all non-executive members to review current scrutiny arrangements in Wirral and discuss preferred models. In advance of this, an extensive research exercise was undertaken by the Scrutiny Team in order to explore governance arrangements at authorities with statistical similarities to Wirral, as well as the experiences of Councils in the UK where committee systems had been introduced. This information was compiled in a briefing pack, which was presented to the Chairs and Party Spokespersons of all four O&S Committees at a pre-workshop meeting, and subsequently circulated to all non-executive Members.

The scoping document and briefing pack are included as an appendix to this report.

2.0 CURRENT ARRANGEMENTS AT WIRRAL

Wirral currently operates an executive model of governance, which allows for the Leader of the Council to have ultimate autonomy over who can make an executive decision, and how that decision is made. Within the executive model, there is a statutory requirement for scrutiny arrangements to be in place, although each local authority has the freedom to decide the arrangements that are most suitable.

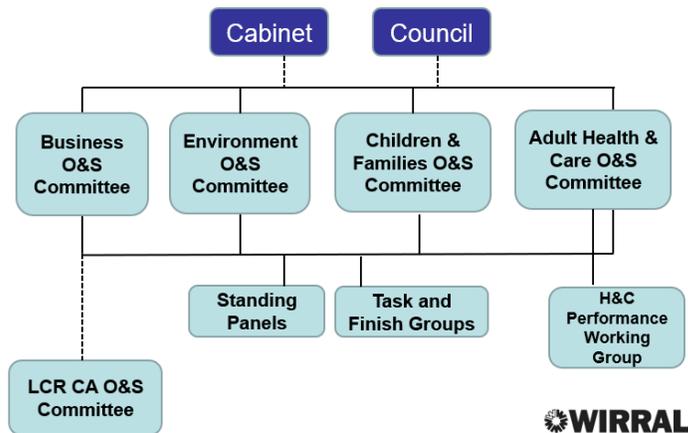
There are currently four Overview and Scrutiny Committees in Wirral:

- Adult Care and Health
- Children and Families
- Environment
- Business

These committees were established to align with the three key themes of the Wirral Plan 2020; Environment, Business and People. In 2017, the People O&S Committee was restructured, with the Adult Care and Health & Children and Families O&S Committees established in order to ensure enhanced oversight to these key areas.

All four Overview & Scrutiny Committees are able to oversee the formation of Standing Panels and Task and Finish Groups in order to scrutinise key topics in more detail. The Adult Care and Health O&S Committee has formally established a Health & Care Performance Working Group which further examines, evaluates and monitors the performance of health and social care providers in Wirral and reports back to the main Committee.

Overview and Scrutiny in Wirral



In addition, three Wirral Members sit on the Overview & Scrutiny Committee of the Liverpool City Region Combined Authority (LCRCA), with regular meetings held throughout the year. LCRCA Overview & Scrutiny Committee activity is reported back to the Business O&S Committee at Wirral to ensure oversight and input into the combined authority work programme.

2.1 Statutory Guidance on Overview & Scrutiny in Local Government

In May 2019, the Ministry for Housing Communities and Local Government published a statutory document on Overview & Scrutiny in local government. Authorities with a scrutiny arrangement have an obligation to hold the guidance in regard when exercising their scrutiny function, although it is nationally recognised that each authority is best placed to determine its own scrutiny arrangements.

The guidance seeks to ensure local authorities and combined authorities are aware of the purpose of overview and scrutiny, what effective scrutiny looks like, how to conduct it effectively and the benefits it can bring. It is encouraging to see that Wirral’s scrutiny function already fulfils several of the controllable areas of focus included in the guidance paper and aligns with best practice in relation to most of the key points. The areas that need work, such as organisational culture, are long-term issues that will require change over an extended period.

Resourcing

As referenced in the guidance, ‘effectively resourced scrutiny adds value to the authority, improves ability to meet the needs of local people and can help policy formulation.’ The designation of a Statutory Scrutiny Officer is required, alongside a team of dedicated scrutiny officers who are structurally independent from those areas they scrutinise, in order to ensure impartiality of advice. Wirral currently delivers all aspects of best practice regarding resourcing, with a statutory scrutiny officer, scrutiny team leader and dedicated team of three independent scrutiny officers in place.

Selecting Committee Members

The paper states that selecting Members for scrutiny committees with the right skills and commitment is essential, and effective induction and training should be ensured. Outside expertise in the form of co-option of individuals and technical advisors can also be useful.

At Wirral, there is no formal selection process in place for Overview & Scrutiny Committees and Groups make arrangements within their own parties for Members to be assigned as they see fit. There is a corporate Member Development programme in place, with scrutiny-specific training and development often arranged by the Scrutiny Team. In 2018/19, this included:

- ‘Delivering Effective Scrutiny’ Induction Training
- Clinical Senate Workshop
- National Health Scrutiny & Assurance Conference
- Risk Workshop
- Chairs Training (facilitated by the Centre for Public Scrutiny)

In addition to this, Committees also have the freedom to arrange the attendance of co-opted members, with the Children & Families O&S Committee membership including diocesan and parent governor representation.

Access to Information

Scrutiny Members should be able to access any information that they require and receive it in good time, with care taken not to limit or refuse information unless necessary. Often, O&S Committees at Wirral make use of closed scrutiny sessions if requested information is financially or commercially sensitive although Members are keen that, where possible, information is presented to the Committee to keep discussion open and transparent.

Work Planning and Considerations for Work Programmes

The guidance suggests that O&S Committees draw up long-term work programmes, making them flexible enough to accommodate any urgent issues that arise during the year. In addition, it is suggested that work is prioritised, with emphasis given to subjects that involve risk, finance or partnership working, and that partners, stakeholders and executive Members are engaged with.

Each of Wirral’s O&S Committees hold dedicated work planning sessions at the start of the municipal year in order to agree a framework for the work programme. This includes use of a set of principles for prioritisation – a clear list of criteria to ensure that the most significant topics are prioritised. Alongside this initial planning session, the agenda for each meeting is reviewed throughout the year to allow urgent issues to be addressed and the work programme to remain as flexible as possible.

There is a focus on pre-decision scrutiny as part of the work planning arrangements at Wirral, with a comprehensive change programme detailing the schedule of upcoming projects that include scrutiny involvement before decisions are made. In addition to separate O&S Committee agenda setting sessions, a quarterly Chair's Meeting is held for the four scrutiny Chairs to discuss their work programmes and ensure there is no duplication of subjects and that cross-committee items are tackled in the most efficient way.

Evidence Sessions

The publication advocates the use of evidence sessions in informing the recommendations of O&S Committees. These sessions can include workshops or task and finish groups, and should have clear objectives to start, and evaluation of evidence presented. In the 2018/19 municipal year, Wirral's O&S Committees completed the following evidence sessions:

- Integrated Mental Health Service Procurement
- Child and Adolescent Mental Health Services (CAMHS) Workshop
- Four Budget Scrutiny Workshops
- Future Multi-Agency Safeguarding arrangements.
- Pooled Funding Workshop
- Quality Accounts 2018/19 Task and Finish
- Wirral Waters Scrutiny Workshop
- Commercial Strategy Scrutiny Workshop
- Council Company Governance Workshop
- Universal Credit Scrutiny Workshop
- Wirral Growth Company Scrutiny Workshop
- Modern Slavery Task and Finish
- Continuing Healthcare Task and Finish

In addition, four 'Reality Check' visits were held for Members of the Children & Families O&S Committee and the Adult Care and Health O&S Committee to visit frontline services to engage with staff, residents and gather evidence on the effectiveness of services and partner organisations.

Culture

A crucial area of focus within the guidance was the idea of a strong organisational culture which recognises the value of scrutiny. In addition, the paper states that early engagement between the Executive and Scrutiny is key, and that Scrutiny Members are supported to have an independent mindset and a high profile within the organisation. Organisational culture within Wirral is an area that requires change and improvement over a period of time to ensure a collaborative environment.

2.1.1 Scrutiny Recommendations

Principally, the biggest impact that scrutiny can have is its power to influence policy and decisions made by the Council and other organisations delivering public services. This impact at Wirral can be evidenced by the number of recommendations made by Overview & Scrutiny Committees that have subsequently been accepted by Cabinet.

Recommendations made to Cabinet/Cabinet Member - 2018/19:

O&S Committee	Review Topic	Recommendations accepted by Cabinet
Environment O&S	Dogs Public Space Protection Orders	1
Business O&S	Commercial Strategy	4
Business O&S	Celtic Manor	1
Adult Care and Health O&S	Continuing Healthcare	7
Adult Care and Health O&S	Pooled Fund Agreement	6
Total Recommendations Accepted: 19		

Recommendations made to Cabinet – Previous Years:

Municipal Year	Number of Recommendations accepted by Cabinet
2017/18	3
2016/17	33
2015/16	20
Total Recommendations Accepted: 56	

Since 2015/16, just two recommendations made to Cabinet have not been accepted – both recommendations were put forward as part of the Resident Parking Review.

2.2 Governance Review and Scrutiny

It is important to note that a review of Council governance arrangements was undertaken by a working group of the Standards and Constitutional Oversight Committee at the same time that the Business Overview & Scrutiny Committee conducted this review of scrutiny arrangements. Both review findings will be presented to the Standards and Constitutional Oversight Committee in September 2019.

The primary objective of the governance review working group was to explore different governance options that could be implemented at Wirral; the current executive model, the committee system or the potential for a hybrid set of arrangements. The Governance Review therefore has implications for the Scrutiny Review as some governance models do not require Scrutiny.

The Reviews Underway



3.0 MEMBER WORKSHOP

One of the key areas included in the initial scope of the review was that the process be a consultative one, with the Chair and Party Spokespersons of the Business O&S Committee keen to include not just the other O&S Chairs and Spokespersons, but all O&S Members in any discussion around change.

A workshop was held on 17th July 2019 in order to include the views of all O&S Members from across political parties and to allow open discussion. The workshop was attended by 11 Elected Members, as well as the key members of the Strategic Leadership Team. The workshop was introduced by the Chair of the Business Overview and Scrutiny Committee.

As part of the workshop, the Statutory Scrutiny Officer facilitated the session in order to ensure the objectives of the session were clear and to provide an overview of current arrangements and key points to be considered as part of the workshop.

The workshop activities were constituted of two main areas of deliberation:

- to gain an understanding of positive areas of the current scrutiny system that members thought should be included into any new arrangements
- to produce a preferred structure of committees that Members agree could work well within a new governance model.

➤ ***Which elements of Overview & Scrutiny should be included in new Wirral governance arrangements?***

Members were asked to consider the following points during the session:

- What works well?
- What key principles of O&S are important?
- Organisational culture
- Pre-decision scrutiny
- Budget scrutiny

- Performance monitoring
- Should O&S be included if a committee/ hybrid model is developed?

Following discussion, a number of key themes were identified by Members – innovative and valuable features of the current system that there was a collective desire to take forward into any new governance model, along with areas of improvement that Members were keen to address and develop to ensure improved decision-making in the future.

Positive Areas of Current Scrutiny

Open Challenge and Debate

Members welcomed the opportunity that scrutiny provides to choose who and what comes before the scrutiny committee for detailed review, and how it enables open and transparent debate. They appreciated the ability that scrutiny has to bring items of public interest to the fore, and to ‘shine a light’ on subjects that require comprehensive examination in a public forum.

Task & Finish

Members expressed interest in ensuring that there is still opportunity for task & finish groups to be established as part of any new governance arrangements. Members stated that these groups are currently a positive way of deep diving into complex issues to ensure meaningful results.

Cross-Cutting Issues, Sub-Committees and Workshops

Discussion took place around the use of workshops and sub-committees in order to cover cross-cutting issues and topics that require further detail, such as the formation of the Health and Care Performance Panel. Members expressed a real desire for cross-cutting issues to be adequately monitored within any new governance arrangements to ensure that nothing falls between the cracks if not easily identified within the remit of a Committee. In addition, the use of workshops or spotlight sessions as a way to scrutinise topics that require input from more than one committee was welcomed.

Partnership Working and Involvement of Stakeholders

Scrutiny provides an environment where frank discussion can be held between the authority and its partner organisations, stakeholders, staff and residents. In 2018/19, a number of witnesses attended O&S meetings – whether they were ordinary committees, specially convened committees or ‘call-ins’ – allowing scrutiny to be a forum in which a variety of different voices and opinions were able to be heard.

Budget and Performance Scrutiny

Through O&S, elected Members have the power and ability to request, monitor and probe any area of service and budget performance. This oversight stretches beyond Council-delivered services and includes monitoring of key partners - ensuring openness and transparency. Within current scrutiny arrangements, there are dedicated budget scrutiny sessions covering the remit of all four O&S Committees, as well as a Health and Care Performance Working Group which allows Members to carry out more detailed examination and evaluation of health and care performance.

Areas for Improvement

Member Engagement and Culture

Councillors questioned whether there was a perception amongst Committee Members that scrutiny lacked impact on decision-making, and whether scrutiny members are less engaged as a result of this. There was discussion around the fact that there may be a belief amongst some Members that scrutiny

'doesn't make a difference', meaning they are then less willing to be fully involved. Some Members felt that the executive model meant that there was no parity of esteem between Cabinet and non-executive members, however it was noted that since the local elections in May 2019, and the change of Cabinet that this was changing 'for the better' and there was more engagement. There was agreement among Members that they needed to work together more effectively.

Ultimately, the idea that recommendations can be overlooked by Cabinet means that the current system allows only a small number of Members to make real decisions – this lack of ownership for the majority of the 66 members could be the primary cause of issues with engagement. Discussion also took place around the tendency for the same Members to contribute to debate and to put themselves forward for working groups etc. (although it was understood that sometimes this can be due to other commitments/working patterns).

Some Members felt that engagement would be improved by a committee system of governance. However, others were concerned about the ability to properly scrutinise decisions under a committee system and felt a hybrid model would be more efficient.

Recommendations and 'Closing the Loop'

Members stated that, historically, there has been no formal mechanism in place to follow up on previous recommendations accepted by Cabinet and subsequently implemented. This was stated as another possible reason that Members seem to be less engaged with scrutiny. Although, it was noted that in recent years, O&S Committees have made strides in requesting follow up reports on scrutiny reviews – for example, the Continuing Healthcare scrutiny review was brought back to the March 2019 meeting of the Adult Care and Health O&S Committee so that Members could be kept apprised of progress within the service.

Quality of Reports and Information

A small number of Members stated that reports can be lacking in detailed information or are provided too late for scrutiny to be able to make any meaningful contribution (this links to a lack of pre-decision scrutiny), although it was appreciated that there is a difficult balance to strike in regard to provision of information. Some felt that the current system was reliant on officer reports and Members were not always confident that they were getting the full picture. Members generally agreed that workshops and reality check visits allowed for more frank and open discussion, often from the frontline, which was preferred to officer reports. They also found workshops to be useful as an information gathering mechanism, meaning they had access to further background information in advance of formal reports to Committees.

Role of the Chair

Some Members voiced concern that on occasion, O&S Chairs can have their own priorities, and only want to look at issues that fit their own agenda. It was widely agreed by Members that good scrutiny is very much dependent on the ability of the Chair, and that this can sometimes be inconsistent. Opposition Members were pleased with the appointment of opposition Chairs, as they felt more included in the O&S Committee meetings as a result of this representation.

Forward Plan/Pre-Decision Scrutiny

Several members were unfamiliar with the corporate 'Forward Plan' and found it lacking in detail and hard to navigate. Although work programmes are developed by Members themselves and they have the power to ask for whatever information they feel necessary, it was the perception of some that there

was insufficient pre-decision scrutiny, and that decisions have already been made by the time O&S are given opportunity to scrutinise them.

Member appointment to Committees

Some Members felt that assignment to current O&S Committees was not always based on expertise or interest in the subject matter. Although the selection process varies between Groups, some Members queried how members would be fairly appointed in the instance of a committee system being introduced, with a number in attendance voicing concerns that the incorrect selection of Members could be a real hindrance to decision making.

➤ *What is your preferred approach to develop a fit for purpose O&S model for Wirral?*

Members were asked to consider the following:

- What would your ideal model of O&S for Wirral?
- Should the O&S structure be based on existing Directorates, functional areas, portfolios or strategic priorities?
- What about scrutiny of partners?
- How can it best provide pre-decision scrutiny?

In order to assist with development of Members' preferred models, packs were supplied to the group which provided an overview of services, alongside current portfolios, directorates, functional areas and strategic priorities. In addition, Members were also reminded of the necessity to include Wirral's continued involvement in the Liverpool City Region Combined Authority O&S arrangements as part of their considerations.

The following committee models were constructed based on discussions held between Members within their workshop groups, as an outline of where O&S may fit in such a model and as a potential basis for terms of reference:

Model 1

Health and Care <i>Current Portfolio: Adult Care, Health & Wellbeing</i>	Children <i>Current Portfolio: Children, Families & Education</i>	Environment <i>Current Portfolio: Community Services Environment & Climate Change</i>
<i>Services:</i> Public Health Adult Social Care Commissioning & Contracts Disability & Mental Health NHS Partners Statutory Health Scrutiny	<i>Services:</i> Early Help & Prevention Specialist Services Modernisation and Support Schools Commissioning and support. * Some members thought 'Education' should have its own separate Committee, however there was no general consensus.	<i>Services:</i> Highways & Traffic One Stop Shops Customer Service Safer Wirral Services Street Scene Statutory Crime & Disorder Scrutiny Statutory Flooding Scrutiny
Business <i>Current Portfolio: Regeneration & Growth The Local Plan Housing & Planning</i>	Culture and Leisure <i>Current Portfolio: Culture & Tourism</i>	Administration <i>Current Portfolio: Finance & Resources</i>
<i>Services:</i> Major Planning Assets & Transport Regen. & Inward Investment	<i>Services:</i> Culture & Visitor Economy Floral, Williamson & Priory Leisure & Libraries Parks and Countryside	<i>Services:</i> Governance & Assurance Communication and Marketing ICT Strategy HR/OD Wirral Intelligence Service Income, Debt & Payments Facilities Management
Climate Change – Across all Committees		

Model 2

Adult Care and Health <i>Current Portfolio: Adult Care, Health & Wellbeing</i>	Children and Families <i>Current Portfolio: Children, Families & Education</i>	Community Services <i>Current Portfolio: Community Services</i>
<i>Services:</i> Public Health Adult Social Care Commissioning & Contracts Disability & Mental Health NHS Partners Statutory Health Scrutiny	<i>Services:</i> Early Help & Prevention Commissioning Specialist Services Community Safety -Primarily C&F Partners	<i>Services:</i> Highways & Traffic Parks & Countryside One Stop Shops Customer Service Leisure & Libraries Statutory Crime & Disorder Scrutiny
Environment and Climate Change <i>Current Portfolio: Environment & Climate Change Regeneration & Growth The Local Plan Housing & Planning</i>	Culture and Tourism <i>Current Portfolio: Culture & Tourism</i>	Business, Audit and Risk <i>Current Portfolio: Finance & Resources</i>
<i>Services:</i> Facilities Major Planning Assets & Transport Climate Change Regen. & Inward Investment Statutory Flooding Scrutiny	<i>Services:</i> Culture & Visitor Econ Floral, Williamson & Priory	<i>Services:</i> Governance & Assurance Finance & Investment ICT Strategy HR/OD WIS Income, Debt & Payments
Communication & Marketing – Across all Committees		

These models are based on the assumption of a committee or hybrid system of governance being adopted – with decision making committees aligning with current portfolio areas. There was broad agreement by Members that dedicated O&S Committee may not be required, but instead the areas of current scrutiny arrangements that work well should be woven into a committee or hybrid system – particularly to ensure that key areas of scrutiny (health, crime & disorder and flood risk) are still carried out effectively.

4.0 SUMMARY AND FINDINGS

As a result of the Member workshop, a number of crucial findings were gathered. In discussing the potential model of a committee or hybrid system at Wirral, there was agreement that retention of the following key principles of effective scrutiny would be required in a new governance model to ensure that decision-making is effective, efficient and legitimate:

- i) Openness and Transparency – Members should be able to access all necessary information required to inform decision making, with open debate and the ability to challenge preserved within any new model of governance.
- ii) Ensuring effective oversight - budget and performance scrutiny and monitoring should be retained in order to ensure that there is effective oversight of financial matters and delivery of programmes of work and improved outcomes for Wirral residents.
- iii) Holding partners to account – Wirral currently delivers a number of services with and through partner organisations. It is essential that the positive aspects of partnership oversight currently in the O&S function are carried over, and that independence of this monitoring is retained.
- iv) The use of Task & Finish and Scrutiny Review groups for each decision-making committee was welcomed, however, to ensure that these sub-groups are truly effective, they will require a focus on improving the organisational culture of the authority, ensuring pre-decision scrutiny remains at the forefront of the Council agenda and that all Members are proactive in horizon scanning and work planning.
- v) Effective assignment of Members with appropriate knowledge and skills and across political groups to relevant Committees and sub-Committees.
- vi) Continued engagement with stakeholders through their attendance at Committees as external witnesses in order that the views and opinions of residents, staff and partners is taken into account as part of the decision-making process. The innovative approach of Reality Check visits is also encouraged as an important way of ensuring frontline views are heard.

4.1 Recommendations

The Business O&S Committee Review Group recommend that:

1. The findings of this review of scrutiny arrangements be taken into account as part any new governance model, with the six key principles of effective scrutiny formally included within the new model of decision-making.
2. The effectiveness of the Overview & Scrutiny arrangements of the new governance model at Wirral should be reviewed after 12 months to ensure the good practice currently in operation is continued.

3. The new governance model should ensure full consideration of Wirral's involvement in the Liverpool City Region Combined Authority Overview & Scrutiny function.



Review of Scrutiny Arrangements

Date:	Wednesday, 17 July 2019
Time:	6.00 p.m.
Venue:	Committee Room 2, Wallasey Town Hall

Contact Officer: Nancy Clarkson
Tel: 0151 691 8258
E-mail: nancyclarkson@wirral.gov.uk
Website: www.wirral.gov.uk

1. **REVIEW SCOPING DOCUMENT (Pages 1 - 4)**
2. **STATUTORY GUIDANCE ON OVERVIEW AND SCRUTINY IN LOCAL AND COMBINED AUTHORITIES (Pages 5 - 36)**
3. **OVERVIEW & SCRUTINY AND COMMITTEE SYSTEM ARRANGEMENTS (Pages 37 - 38)**
4. **CURRENT ARRANGEMENTS - TERMS OF REFERENCE FOR OVERVIEW AND SCRUTINY (Pages 39 - 44)**
5. **PREVIOUS SCRUTINY ARRANGEMENTS IN WIRRAL (Pages 45 - 50)**
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7. **COMMITTEE SYSTEMS AT OTHER LOCAL AUTHORITIES (Pages 57 - 60)**

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Scrutiny Review Scoping Template

Review Title: Review of Scrutiny Arrangements

Responsible Committee: Business Overview & Scrutiny Committee

Date: 18/06/2019

1. Contact Information:

Review Panel Members:

Councillor Dave Mitchell – Chair (Liberal Democrats)
Councillor Jo Bird (Labour)
Councillor Steve Williams (Conservative)

Key Officers:

David Armstrong (Corporate Director Delivery Services)
Phil McCourt (Director of Governance & Assurance)
Nancy Clarkson (Head of Intelligence and Statutory Scrutiny Officer)
Viki Shaw – (Head of Legal Services)
Mike Lester (Scrutiny Officer – Business O&S)

Other Contacts:

Carl Gurnell (Team Leader Performance & Scrutiny)
Anna Perret – (Scrutiny Officer)
Alexandra Davidson (Scrutiny Officer)

2. Review Aims:

Review Objectives:

At the Council meeting on 14th May, 2019, the following resolution was agreed:

“That this is subject to the Council charging the:

(a) Standards and Constitutional Oversight Committee to conduct a review of the governance arrangements of the Council, with the objective to produce, in September 2019, an interim report on options and preferred outline for further consideration; and

(b) Business Overview & Scrutiny Committee conducting a review of the Council’s overview and scrutiny committee arrangements, in consultation with the Committee Chairs and group representatives, to consider the number of committees and their respective terms of reference to report back on suggested steps to improve the arrangement in sufficient time for them to be received and considered by the Standards and Constitutional Oversight Committee at its meeting in September.”

Scrutiny Outcome:

To make recommendations to the Council’s Standards and Constitutional Oversight Committee on the Council’s scrutiny arrangements with a deadline for report submission of Thursday 22nd August 2019.

2. Risks and Implications

Potential Risks:

Risks to be further developed with the working group, initial risks identified include:

- Producing a thorough review to enable an informed decision in accordance with time scales for reporting in September 19th Committee.
- Reaching clarity and agreement with a large number of participants on the most appropriate future approach to Scrutiny.
- Impact of the Governance review on O&S arrangements in Wirral which has implications for work of this review (see legal considerations below).
- Potential impact of O&S changes in Wirral on wider LCR Scrutiny.

Other Implications:

Legal Considerations for the Review Panel:

Concurrent to this O&S review the Council is carrying out a Governance review. This review will include research into a 'committee system' of operation. Such a system has potential implications for if Council requires an O&S function. The legal guidance is included here for reference.

The requirement for local authorities in England to establish overview and scrutiny committees is set out in sections 9F to 9FI of the Local Government Act 2000.

The Localism Act 2011 amended the Local Government Act 2000 to allow councils to revert to a non-executive form of governance - the 'committee system'. Councils who adopt the committee system are not required to have overview and scrutiny but may do so if they wish.

The O&S review panel may wish to consider these implications in the work of their review.

3. Review Plan

Review Approach:

Review Panel to approve workshop content and approach.

Single workshop open to all non-executive Members, including Committee Chairs and group representatives.

Workshop findings reviewed by Review Panel and report finalised.

Review Duration:

The review duration will be from June to September 2019 with a key focus on a single workshop on 17th July 2019.

Scheduled Committee Report Date:

Report to Standards and Constitutional Oversight Committee on 19th September 2019., Report

Deadline: Thursday 22nd August 2019

Review Panel to sign off report Thursday 15th August 2019

Scheduled Cabinet Report Date:

N/A

4. Sources of Evidence:

Key Witnesses:

Philip McCourt (Director of Governance & Assurance)
Vicki Shaw (Head of Legal Services)
David Armstrong (Corporate Director Delivery Services)
Nancy Clarkson (Head of Intelligence and Statutory Scrutiny Officer)
Nicola Butterworth (Assistant Director for Commercial Management & Lead Officer for Environment O&S Committee)
Shaer Halewood (Director of Finance & Investment & Lead Officer for Business O&S Committee)
Paul Boyce (Corporate Director for Children Services & Lead Officer for Children & Young People O&S Committee)
Graham Hodgkinson (Director for Adult Care & Health & Lead Officer for Adult Care & Health O&S Committee)

Supporting Papers / Documentation:

- Overview and scrutiny: statutory guidance for councils and combined authorities.
- Existing committee terms of reference.
- Review of other local authority scrutiny arrangements (with a focus on CIPFA nearest neighbours for comparison purposes).
- Review of other Local Authorities operating under a committee system.
- Previous Scrutiny arrangements in Wirral.
- Possible questionnaire for members to provide feedback on O&S – decision to be made post-workshop.

Involvement of service users / public:

N/A

5. Key Communications and timings:

To be further developed and finalised following the workshop.

Cabinet Member:

Business O&S Chair to brief Council Leadership / Cabinet on review findings.

Press Office:

Communications lead to be briefed on review findings as appropriate.

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Ministry of Housing,
Communities &
Local Government

Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities



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Ministerial Foreword

The role that overview and scrutiny can play in holding an authority's decision-makers to account makes it fundamentally important to the successful functioning of local democracy. Effective scrutiny helps secure the efficient delivery of public services and drives improvements within the authority itself. Conversely, poor scrutiny can be indicative of wider governance, leadership and service failure.

It is vital that councils and combined authorities know the purpose of scrutiny, what effective scrutiny looks like, how to conduct it and the benefits it can bring. This guidance aims to increase understanding in all four areas.

In writing this guidance, my department has taken close note of the House of Commons Select Committee report of December 2017, as well as the written and oral evidence supplied to that Committee. We have also consulted individuals and organisations with practical involvement in conducting, researching and supporting scrutiny.

It is clear from speaking to these practitioners that local and combined authorities with effective overview and scrutiny arrangements in place share certain key traits, the most important being a strong organisational culture. Authorities who welcome challenge and recognise the value scrutiny can bring reap the benefits. But this depends on strong commitment from the top - from senior members as well as senior officials.

Crucially, this guidance recognises that authorities have democratic mandates and are ultimately accountable to their electorates, and that authorities themselves are best-placed to know which scrutiny arrangements are most appropriate for their own individual circumstances.

I would, however, strongly urge all councils to cast a critical eye over their existing arrangements and, above all, ensure they embed a culture that allows overview and scrutiny to flourish.

A handwritten signature in blue ink, appearing to read 'Rishi Sunak'.

Rishi Sunak MP
Minister for Local Government

About this Guidance

Who the guidance is for

This document is aimed at local authorities and combined authorities in England to help them carry out their overview and scrutiny functions effectively. In particular, it provides advice for senior leaders, members of overview and scrutiny committees, and support officers.

Aim of the guidance

This guidance seeks to ensure local authorities and combined authorities are aware of the purpose of overview and scrutiny, what effective scrutiny looks like, how to conduct it effectively and the benefits it can bring.

As such, it includes a number of policies and practices authorities should adopt or should consider adopting when deciding how to carry out their overview and scrutiny functions.

The guidance recognises that authorities approach scrutiny in different ways and have different processes and procedures in place, and that what might work well for one authority might not work well in another.

The hypothetical scenarios contained in the annexes to this guidance have been included for illustrative purposes, and are intended to provoke thought and discussion rather than serve as a 'best' way to approach the relevant issues.

While the guidance sets out some of the key legal requirements, it does not seek to replicate legislation.

Status of the guidance

This is statutory guidance from the Ministry of Housing, Communities and Local Government. Local authorities and combined authorities must have regard to it when exercising their functions. The phrase 'must have regard', when used in this context, does not mean that the sections of statutory guidance have to be followed in every detail, but that they should be followed unless there is a good reason not to in a particular case.

Not every authority is required to appoint a scrutiny committee. This guidance applies to those authorities who have such a committee in place, whether they are required to or not.

This guidance has been issued under section 9Q of the Local Government Act 2000 and under paragraph 2(9) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009, which requires authorities to have regard to this guidance. In addition, authorities may have regard to other material they might choose to consider, including that issued by the Centre for Public Scrutiny, when exercising their overview and scrutiny functions.

Terminology

Unless 'overview' is specifically mentioned, the term 'scrutiny' refers to both overview and scrutiny.¹

Where the term 'authority' is used, it refers to both local authorities and combined authorities.

Where the term 'scrutiny committee' is used, it refers to an overview and scrutiny committee and any of its sub-committees. As the legislation refers throughout to powers conferred on scrutiny committees, that is the wording used in this guidance. However, the guidance should be seen as applying equally to work undertaken in informal task and finish groups, commissioned by formal committees.

Where the term 'executive' is used, it refers to executive members.

For combined authorities, references to the 'executive' or 'cabinet' should be interpreted as relating to the mayor (where applicable) and all the authority members.

For authorities operating committee rather than executive arrangements, references to the executive or Cabinet should be interpreted as relating to councillors in leadership positions.

Expiry or review date

This guidance will be kept under review and updated as necessary.

¹ A distinction is often drawn between 'overview' which focuses on the development of policy, and 'scrutiny' which looks at decisions that have been made or are about to be made to ensure they are fit for purpose.

1. Introduction and Context

1. Overview and scrutiny committees were introduced in 2000 as part of new executive governance arrangements to ensure that members of an authority who were not part of the executive could hold the executive to account for the decisions and actions that affect their communities.
2. Overview and scrutiny committees have statutory powers² to scrutinise decisions the executive is planning to take, those it plans to implement, and those that have already been taken/implemented. Recommendations following scrutiny enable improvements to be made to policies and how they are implemented. Overview and scrutiny committees can also play a valuable role in developing policy.

Effective overview and scrutiny should:

- Provide constructive 'critical friend' challenge;
- Amplify the voices and concerns of the public;
- Be led by independent people who take responsibility for their role; and
- Drive improvement in public services.

3. The requirement for local authorities in England to establish overview and scrutiny committees is set out in sections 9F to 9FI of the Local Government Act 2000 as amended by the Localism Act 2011.
4. The Localism Act 2011 amended the Local Government Act 2000 to allow councils to revert to a non-executive form of governance - the 'committee system'. Councils who adopt the committee system are not required to have overview and scrutiny but may do so if they wish. The legislation has been strengthened and updated since 2000, most recently to reflect new governance arrangements with combined authorities. Requirements for combined authorities are set out in Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009.
5. Current overview and scrutiny legislation recognises that authorities are democratically-elected bodies who are best-placed to determine which overview and scrutiny arrangements best suit their own individual needs, and so gives them a great degree of flexibility to decide which arrangements to adopt.
6. In producing this guidance, the Government fully recognises both authorities' democratic mandate and that the nature of local government has changed in recent years, with, for example, the creation of combined authorities, and councils increasingly delivering key services in partnership with other organisations or outsourcing them entirely.

² Section 9F of the Local Government Act 2000; paragraph 1 of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009.

2. Culture

7. The prevailing organisational culture, behaviours and attitudes of an authority will largely determine whether its scrutiny function succeeds or fails.
8. While everyone in an authority can play a role in creating an environment conducive to effective scrutiny, it is important that this is led and owned by members, given their role in setting and maintaining the culture of an authority.
9. Creating a strong organisational culture supports scrutiny work that can add real value by, for example, improving policy-making and the efficient delivery of public services. In contrast, low levels of support for and engagement with the scrutiny function often lead to poor quality and ill-focused work that serves to reinforce the perception that it is of little worth or relevance.
10. Members and senior officers should note that the performance of the scrutiny function is not just of interest to the authority itself. Its effectiveness, or lack thereof, is often considered by external bodies such as regulators and inspectors, and highlighted in public reports, including best value inspection reports. Failures in scrutiny can therefore help to create a negative public image of the work of an authority as a whole.

How to establish a strong organisational culture

11. Authorities can establish a strong organisational culture by:

- a) **Recognising scrutiny's legal and democratic legitimacy** – all members and officers should recognise and appreciate the importance and legitimacy the scrutiny function is afforded by the law. It was created to act as a check and balance on the executive and is a statutory requirement for all authorities operating executive arrangements and for combined authorities.

Councillors have a unique legitimacy derived from their being democratically elected. The insights that they can bring by having this close connection to local people are part of what gives scrutiny its value.

- b) **Identifying a clear role and focus** – authorities should take steps to ensure scrutiny has a clear role and focus within the organisation, i.e. a niche within which it can clearly demonstrate it adds value. Therefore, prioritisation is necessary to ensure the scrutiny function concentrates on delivering work that is of genuine value and relevance to the work of the wider authority – this is one of the most challenging parts of scrutiny, and a critical element to get right if it is to be recognised as a strategic function of the authority (see chapter 6).

Authorities should ensure a clear division of responsibilities between the scrutiny function and the audit function. While it is appropriate for scrutiny to pay due regard to the authority's financial position, this will need to happen in the context of the formal audit role. The authority's section 151 officer should advise scrutiny on how to manage this dynamic.

While scrutiny has no role in the investigation or oversight of the authority's whistleblowing arrangements, the findings of independent whistleblowing investigations might be of interest to scrutiny committees as they consider their wider implications. Members should always follow the authority's constitution and associated Monitoring Officer directions on the matter. Further guidance on whistleblowing can be found at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/415175/bis-15-200-whistleblowing-guidance-for-employers-and-code-of-practice.pdf.

- c) **Ensuring early and regular engagement between the executive and scrutiny** – authorities should ensure early and regular discussion takes place between scrutiny and the executive, especially regarding the latter's future work programme. Authorities should, though, be mindful of their distinct roles:

In particular:

- The executive should not try to exercise control over the work of the scrutiny committee. This could be direct, e.g. by purporting to 'order' scrutiny to look at, or not look at, certain issues, or indirect, e.g. through the use of the whip or as a tool of political patronage, and the committee itself should remember its statutory purpose when carrying out its work. All members and officers should consider the role the scrutiny committee plays to be that of a 'critical friend' not a de facto 'opposition'. Scrutiny chairs have a particular role to play in establishing the profile and nature of their committee (see chapter 4); and
- The chair of the scrutiny committee should determine the nature and extent of an executive member's participation in a scrutiny committee meeting, and in any informal scrutiny task group meeting.

- d) **Managing disagreement** – effective scrutiny involves looking at issues that can be politically contentious. It is therefore inevitable that, at times, an executive will disagree with the findings or recommendations of a scrutiny committee.

It is the job of both the executive and scrutiny to work together to reduce the risk of this happening, and authorities should take steps to predict, identify and act on disagreement.

One way in which this can be done is via an 'executive-scrutiny protocol' (see annex 1) which can help define the relationship between the two and mitigate any differences of opinion before they manifest themselves in unhelpful and unproductive ways. The benefit of this approach is that it provides a framework for disagreement and debate, and a way to manage it when it happens. Often,

the value of such a protocol lies in the dialogue that underpins its preparation. It is important that these protocols are reviewed on a regular basis.

Scrutiny committees do have the power to 'call in' decisions, i.e. ask the executive to reconsider them before they are implemented, but should not view it as a substitute for early involvement in the decision-making process or as a party-political tool.

- e) **Providing the necessary support** – while the level of resource allocated to scrutiny is for each authority to decide for itself, when determining resources an authority should consider the purpose of scrutiny as set out in legislation and the specific role and remit of the authority's own scrutiny committee(s), and the scrutiny function as a whole.

Support should also be given by members and senior officers to scrutiny committees and their support staff to access information held by the authority and facilitate discussions with representatives of external bodies (see chapter 5).

- f) **Ensuring impartial advice from officers** – authorities, particularly senior officers, should ensure all officers are free to provide impartial advice to scrutiny committees. This is fundamental to effective scrutiny. Of particular importance is the role played by 'statutory officers' – the monitoring officer, the section 151 officer and the head of paid service, and where relevant the statutory scrutiny officer. These individuals have a particular role in ensuring that timely, relevant and high-quality advice is provided to scrutiny.
- g) **Communicating scrutiny's role and purpose to the wider authority** – the scrutiny function can often lack support and recognition within an authority because there is a lack of awareness among both members and officers about the specific role it plays, which individuals are involved and its relevance to the authority's wider work. Authorities should, therefore, take steps to ensure all members and officers are made aware of the role the scrutiny committee plays in the organisation, its value and the outcomes it can deliver, the powers it has, its membership and, if appropriate, the identity of those providing officer support.
- h) **Maintaining the interest of full Council in the work of the scrutiny committee** – part of communicating scrutiny's role and purpose to the wider authority should happen through the formal, public role of full Council – particularly given that scrutiny will undertake valuable work to highlight challenging issues that an authority will be facing and subjects that will be a focus of full Council's work. Authorities should therefore take steps to ensure full Council is informed of the work the scrutiny committee is doing.

One way in which this can be done is by reports and recommendations being submitted to full Council rather than solely to the executive. Scrutiny should decide when it would be appropriate to submit reports for wider debate in this way, taking into account the relevance of reports to full Council business, as well as full Council's capacity to consider and respond in a timely manner. Such

reports would supplement the annual report to full Council on scrutiny's activities and raise awareness of ongoing work.

In order to maintain awareness of scrutiny at the Combined Authority and provoke dialogue and discussion of its impact, the business of scrutiny should be reported to the Combined Authority board or to the chairs of the relevant scrutiny committees of constituent and non-constituent authorities, or both. At those chairs' discretion, particular Combined Authority scrutiny outcomes, and what they might mean for each individual area, could be either discussed by scrutiny in committee or referred to full Council of the constituent authorities.

- i) **Communicating scrutiny's role to the public** – authorities should ensure scrutiny has a profile in the wider community. Consideration should be given to how and when to engage the authority's communications officers, and any other relevant channels, to understand how to get that message across. This will usually require engagement early on in the work programming process (see chapter 6).
- j) **Ensuring scrutiny members are supported in having an independent mindset** – formal committee meetings provide a vital opportunity for scrutiny members to question the executive and officers.

Inevitably, some committee members will come from the same political party as a member they are scrutinising and might well have a long-standing personal, or familial, relationship with them (see paragraph 25).

Scrutiny members should bear in mind, however, that adopting an independent mind-set is fundamental to carrying out their work effectively. In practice, this is likely to require scrutiny chairs working proactively to identify any potentially contentious issues and plan how to manage them.

Directly-elected mayoral systems

12. A strong organisational culture that supports scrutiny work is particularly important in authorities with a directly-elected mayor to ensure there are the checks and balances to maintain a robust democratic system. Mayoral systems offer the opportunity for greater public accountability and stronger governance, but there have also been incidents that highlight the importance of creating and maintaining a culture that puts scrutiny at the heart of its operations.
13. Authorities with a directly-elected mayor should ensure that scrutiny committees are well-resourced, are able to recruit high-calibre members and that their scrutiny functions pay particular attention to issues surrounding:
 - rights of access to documents by the press, public and councillors;
 - transparent and fully recorded decision-making processes, especially avoiding decisions by 'unofficial' committees or working groups;
 - delegated decisions by the Mayor;
 - whistleblowing protections for both staff and councillors; and
 - powers of Full Council, where applicable, to question and review.

14. Authorities with a directly-elected mayor should note that mayors are required by law to attend overview and scrutiny committee sessions when asked to do so (see paragraph 44).

3. Resourcing

15. The resource an authority allocates to the scrutiny function plays a pivotal role in determining how successful that function is and therefore the value it can add to the work of the authority.
16. Ultimately it is up to each authority to decide on the resource it provides, but every authority should recognise that creating and sustaining an effective scrutiny function requires them to allocate resources to it.
17. Authorities should also recognise that support for scrutiny committees, task groups and other activities is not solely about budgets and provision of officer time, although these are clearly extremely important elements. Effective support is also about the ways in which the wider authority engages with those who carry out the scrutiny function (both members and officers).

When deciding on the level of resource to allocate to the scrutiny function, the factors an authority should consider include:

- Scrutiny's legal powers and responsibilities;
- The particular role and remit scrutiny will play in the authority;
- The training requirements of scrutiny members and support officers, particularly the support needed to ask effective questions of the executive and other key partners, and make effective recommendations;
- The need for ad hoc external support where expertise does not exist in the council;
- Effectively-resourced scrutiny has been shown to add value to the work of authorities, improving their ability to meet the needs of local people; and
- Effectively-resourced scrutiny can help policy formulation and so minimise the need for call-in of executive decisions.

Statutory scrutiny officers

18. Combined authorities, upper and single tier authorities are required to designate a statutory scrutiny officer,³ someone whose role is to:
 - promote the role of the authority's scrutiny committee;
 - provide support to the scrutiny committee and its members; and
 - provide support and guidance to members and officers relating to the functions of the scrutiny committee.

³ Section 9FB of the Local Government Act 2000; article 9 of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017

19. Authorities not required by law to appoint such an officer should consider whether doing so would be appropriate for their specific local needs.

Officer resource models

20. Authorities are free to decide for themselves which wider officer support model best suits their individual circumstances, though generally they adopt one or a mix of the following:

- Committee – officers are drawn from specific policy or service areas;
- Integrated – officers are drawn from the corporate centre and also service the executive; and
- Specialist – officers are dedicated to scrutiny.

21. Each model has its merits – the committee model provides service-specific expertise; the integrated model facilitates closer and earlier scrutiny involvement in policy formation and alignment of corporate work programmes; and the specialist model is structurally independent from those areas it scrutinises.

22. Authorities should ensure that, whatever model they employ, officers tasked with providing scrutiny support are able to provide impartial advice. This might require consideration of the need to build safeguards into the way that support is provided. The nature of these safeguards will differ according to the specific role scrutiny plays in the organisation.

4. Selecting Committee Members

23. Selecting the right members to serve on scrutiny committees is essential if those committees are to function effectively. Where a committee is made up of members who have the necessary skills and commitment, it is far more likely to be taken seriously by the wider authority.
24. While there are proportionality requirements that must be met,⁴ the selection of the chair and other committee members is for each authority to decide for itself. Guidance for combined authorities on this issue has been produced by the Centre for Public Scrutiny⁵.

Members invariably have different skill-sets. What an authority must consider when forming a committee is that, as a group, it possesses the requisite expertise, commitment and ability to act impartially to fulfil its functions.

25. Authorities are reminded that members of the executive cannot be members of a scrutiny committee.⁶ Authorities should take care to ensure that, as a minimum, members holding less formal executive positions, e.g. as Cabinet assistants, do not sit on scrutinising committees looking at portfolios to which those roles relate. Authorities should articulate in their constitutions how conflicts of interest, including familial links (see also paragraph 31), between executive and scrutiny responsibilities should be managed, including where members stand down from the executive and move to a scrutiny role, and vice-versa.
26. Members or substitute members of a combined authority must not be members of its overview and scrutiny committee.⁷ This includes the Mayor in Mayoral Combined Authorities. It is advised that Deputy Mayors for Policing and Crime are also not members of the combined authority's overview and scrutiny committee.

Selecting individual committee members

27. When selecting individual members to serve on scrutiny committees, an authority should consider a member's experience, expertise, interests, ability to act impartially, ability to work as part of a group, and capacity to serve.

⁴ See, for example, regulation 11 of the Local Authorities (Committee System) (England) Regulations 2012 (S.I. 2012/1020) and article 4 of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 (S.I. 2017/68).

⁵ See pages 15-18 of 'Overview and scrutiny in combined authorities: a plain English guide': <https://www.cfps.org.uk/wp-content/uploads/Overview-and-scrutiny-in-combined-authorities-a-plain-english-guide.pdf>

⁶ Section 9FA(3) of the Local Government Act 2000.

⁷ 2(3) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009

28. Authorities should not take into account a member's perceived level of support for or opposition to a particular political party (notwithstanding the wider legal requirement for proportionality referred to in paragraph 24).

Selecting a chair

29. The Chair plays a leadership role on a scrutiny committee as they are largely responsible for establishing its profile, influence and ways of working.

30. The attributes authorities should and should not take into account when selecting individual committee members (see paragraphs 27 and 28) also apply to the selection of the Chair, but the Chair should also possess the ability to lead and build a sense of teamwork and consensus among committee members.

Chairs should pay special attention to the need to guard the committee's independence. Importantly, however, they should take care to avoid the committee being, and being viewed as, a de facto opposition to the executive.

31. Given their pre-eminent role on the scrutiny committee, it is strongly recommended that the Chair not preside over scrutiny of their relatives⁸. Combined authorities should note the legal requirements that apply to them where the Chair is an independent person⁹.

32. The method for selecting a Chair is for each authority to decide for itself, however every authority should consider taking a vote by secret ballot. Combined Authorities should be aware of the legal requirements regarding the party affiliation of their scrutiny committee Chair¹⁰.

Training for committee members

33. Authorities should ensure committee members are offered induction when they take up their role and ongoing training so they can carry out their responsibilities effectively. Authorities should pay attention to the need to ensure committee members are aware of their legal powers, and how to prepare for and ask relevant questions at scrutiny sessions.

34. When deciding on training requirements for committee members, authorities should consider taking advantage of opportunities offered by external providers in the sector.

Co-option and technical advice

35. While members and their support officers will often have significant local insight and an understanding of local people and their needs, the provision of outside expertise can be invaluable.

⁸ A definition of 'relative' can be found at section 28(10) of the Localism Act 2011.

⁹ See article 5(2) of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 (S.I. 2017/68).

¹⁰ Article 5(6) of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.

36. There are two principal ways to procure this:

- Co-option – formal co-option is provided for in legislation¹¹. Authorities must establish a co-option scheme to determine how individuals will be co-opted onto committees; and
- Technical advisers – depending on the subject matter, independent local experts might exist who can provide advice and assistance in evaluating evidence (see annex 2).

¹¹ Section 9FA(4) Local Government Act 2000

5. Power to Access Information

37. A scrutiny committee needs access to relevant information the authority holds, and to receive it in good time, if it is to do its job effectively.
38. This need is recognised in law, with members of scrutiny committees enjoying powers to access information¹². In particular, regulations give enhanced powers to a scrutiny member to access exempt or confidential information. This is in addition to existing rights for councillors to have access to information to perform their duties, including common law rights to request information and rights to request information under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
39. When considering what information scrutiny needs in order to carry out its work, scrutiny members and the executive should consider scrutiny's role and the legal rights that committees and their individual members have, as well as their need to receive timely and accurate information to carry out their duties effectively.
40. Scrutiny members should have access to a regularly available source of key information about the management of the authority – particularly on performance, management and risk. Where this information exists, and scrutiny members are given support to understand it, the potential for what officers might consider unfocused and unproductive requests is reduced as members will be able to frame their requests from a more informed position.
41. Officers should speak to scrutiny members to ensure they understand the reasons why information is needed, thereby making the authority better able to provide information that is relevant and timely, as well as ensuring that the authority complies with legal requirements.

While each request for information should be judged on its individual merits, authorities should adopt a default position of sharing the information they hold, on request, with scrutiny committee members.

42. The law recognises that there might be instances where it is legitimate for an authority to withhold information and places a requirement on the executive to provide the scrutiny committee with a written statement setting out its reasons for that decision¹³. However, members of the executive and senior officers should take particular care to avoid refusing requests, or limiting the information they provide, for reasons of party political or reputational expediency.

¹² Regulation 17 - Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012; article 10 Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.

¹³ Regulation 17(4) – Local Government (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012; article 10(4) Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.

Before an authority takes a decision not to share information it holds, it should give serious consideration to whether that information could be shared in closed session.

43. Regulations already stipulate a timeframe for executives to comply with requests from a scrutiny member¹⁴. When agreeing to such requests, authorities should:

- consider whether seeking clarification from the information requester could help better target the request; and
- Ensure the information is supplied in a format appropriate to the recipient's needs.

44. Committees should be aware of their legal power to require members of the executive and officers to attend before them to answer questions¹⁵. It is the duty of members and officers to comply with such requests.¹⁶

Seeking information from external organisations

45. Scrutiny members should also consider the need to supplement any authority-held information they receive with information and intelligence that might be available from other sources, and should note in particular their statutory powers to access information from certain external organisations.

46. When asking an external organisation to provide documentation or appear before it, and where that organisation is not legally obliged to do either (see annex 3), scrutiny committees should consider the following:

- a) **The need to explain the purpose of scrutiny** – the organisation being approached might have little or no awareness of the committee's work, or of an authority's scrutiny function more generally, and so might be reluctant to comply with any request;
- b) **The benefits of an informal approach** – individuals from external organisations can have fixed perceptions of what an evidence session entails and may be unwilling to subject themselves to detailed public scrutiny if they believe it could reflect badly on them or their employer. Making an informal approach can help reassure an organisation of the aims of the committee, the type of information being sought and the manner in which the evidence session would be conducted;

¹⁴ Regulation 17(2) – Local Government (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012; article 10(2) Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.

¹⁵ Section 9FA(8) of the Local Government Act 2000; paragraph 2(6) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009.

¹⁶ Section 9FA(9) of the Local Government Act 2000; paragraph 2(7) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009.

- c) **How to encourage compliance with the request** – scrutiny committees will want to frame their approach on a case by case basis. For contentious issues, committees might want to emphasise the opportunity their request gives the organisation to ‘set the record straight’ in a public setting; and
- d) **Who to approach** – a committee might instinctively want to ask the Chief Executive or Managing Director of an organisation to appear at an evidence session, however it could be more beneficial to engage front-line staff when seeking operational-level detail rather than senior executives who might only be able to talk in more general terms. When making a request to a specific individual, the committee should consider the type of information it is seeking, the nature of the organisation in question and the authority’s pre-existing relationship with it.

Following ‘the Council Pound’

Scrutiny committees will often have a keen interest in ‘following the council pound’, i.e. scrutinising organisations that receive public funding to deliver goods and services.

Authorities should recognise the legitimacy of this interest and, where relevant, consider the need to provide assistance to scrutiny members and their support staff to obtain information from organisations the council has contracted to deliver services. In particular, when agreeing contracts with these bodies, authorities should consider whether it would be appropriate to include a *requirement* for them to supply information to or appear before scrutiny committees.

6. Planning Work

47. Effective scrutiny should have a defined impact on the ground, with the committee making recommendations that will make a tangible difference to the work of the authority. To have this kind of impact, scrutiny committees need to plan their work programme, i.e. draw up a long-term agenda and consider making it flexible enough to accommodate any urgent, short-term issues that might arise during the year.
48. Authorities with multiple scrutiny committees sometimes have a separate work programme for each committee. Where this happens, consideration should be given to how to co-ordinate the various committees' work to make best use of the total resources available.

Being clear about scrutiny's role

49. Scrutiny works best when it has a clear role and function. This provides focus and direction. While scrutiny has the power to look at anything which affects 'the area, or the area's inhabitants', authorities will often find it difficult to support a scrutiny function that carries out generalised oversight across the wide range of issues experienced by local people, particularly in the context of partnership working. Prioritisation is necessary, which means that there might be things that, despite being important, scrutiny will not be able to look at.
50. Different overall roles could include having a focus on risk, the authority's finances, or on the way the authority works with its partners.
51. Applying this focus does not mean that certain subjects are 'off limits'. It is more about looking at topics and deciding whether their relative importance justifies the positive impact scrutiny's further involvement could bring.
52. When thinking about scrutiny's focus, members should be supported by key senior officers. The statutory scrutiny officer, if an authority has one, will need to take a leading role in supporting members to clarify the role and function of scrutiny, and championing that role once agreed.

Who to speak to

53. Evidence will need to be gathered to inform the work programming process. This will ensure that it looks at the right topics, in the right way and at the right time. Gathering evidence requires conversations with:
 - *The public* – it is likely that formal 'consultation' with the public on the scrutiny work programme will be ineffective. Asking individual scrutiny members to have conversations with individuals and groups in their own local areas can work better. Insights gained from the public through individual pieces of scrutiny work can be fed back into the work programming process. Listening to and participating in conversations in places where local people come together, including in online forums, can help authorities engage people on their own terms and yield more positive results.

Authorities should consider how their communications officers can help scrutiny engage with the public, and how wider internal expertise and local knowledge from both members and officers might make a contribution.

- *The authority's partners* – relationships with other partners should not be limited to evidence-gathering to support individual reviews or agenda items. A range of partners are likely to have insights that will prove useful:
 - Public sector partners (like the NHS and community safety partners, over which scrutiny has specific legal powers);
 - Voluntary sector partners;
 - Contractors and commissioning partners (including partners in joint ventures and authority-owned companies);
 - In parished areas, town, community and parish councils;
 - Neighbouring principal councils (both in two-tier and unitary areas);
 - Cross-authority bodies and organisations, such as Local Enterprise Partnerships¹⁷; and
 - Others with a stake and interest in the local area – large local employers, for example.
- *The executive* – a principal partner in discussions on the work programme should be the executive (and senior officers). The executive should not direct scrutiny's work (see chapter 2), but conversations will help scrutiny members better understand how their work can be designed to align with the best opportunities to influence the authority's wider work.

Information sources

54. Scrutiny will need access to relevant information to inform its work programme. The type of information will depend on the specific role and function scrutiny plays within the authority, but might include:

- Performance information from across the authority and its partners;
- Finance and risk information from across the authority and its partners;
- Corporate complaints information, and aggregated information from political groups about the subject matter of members' surgeries;
- Business cases and options appraisals (and other planning information) for forthcoming major decisions. This information will be of particular use for pre-decision scrutiny; and
- Reports and recommendations issued by relevant ombudsmen, especially the Local Government and Social Care Ombudsman.

¹⁷ Authorities should ensure they have appropriate arrangements in place to ensure the effective democratic scrutiny of Local Enterprise Partnerships' investment decisions.

As committees can meet in closed session, commercial confidentiality should not preclude the sharing of information. Authorities should note, however, that the default for meetings should be that they are held in public (see 2014 guidance on '*Open and accountable local government*':

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/343182/140812_Openness_Guide.pdf).

55. Scrutiny members should consider keeping this information under regular review. It is likely to be easier to do this outside committee, rather than bringing such information to committee 'to note', or to provide an update, as a matter of course.

Shortlisting topics

Approaches to shortlisting topics should reflect scrutiny's overall role in the authority. This will require the development of bespoke, local solutions, however when considering whether an item should be included in the work programme, the kind of questions a scrutiny committee should consider might include:

- Do we understand the benefits scrutiny would bring to this issue?
- How could we best carry out work on this subject?
- What would be the best outcome of this work?
- How would this work engage with the activity of the executive and other decision-makers, including partners?

56. Some authorities use scoring systems to evaluate and rank work programme proposals. If these are used to provoke discussion and debate, based on evidence, about what priorities should be, they can be a useful tool. Others take a looser approach. Whichever method is adopted, a committee should be able to justify how and why a decision has been taken to include certain issues and not others.

57. Scrutiny members should accept that shortlisting can be difficult; scrutiny committees have finite resources and deciding how these are best allocated is tough. They should understand that, if work programming is robust and effective, there might well be issues that they want to look at that nonetheless are not selected.

Carrying out work

58. Selected topics can be scrutinised in several ways, including:

- a) **As a single item on a committee agenda** – this often presents a limited opportunity for effective scrutiny, but may be appropriate for some issues or where the committee wants to maintain a formal watching brief over a given issue;
- b) **At a single meeting** – which could be a committee meeting or something less formal. This can provide an opportunity to have a single public meeting about a

given subject, or to have a meeting at which evidence is taken from a number of witnesses;

- c) **At a task and finish review of two or three meetings** – short, sharp scrutiny reviews are likely to be most effective even for complex topics. Properly focused, they ensure members can swiftly reach conclusions and make recommendations, perhaps over the course of a couple of months or less;
- d) **Via a longer-term task and finish review** – the ‘traditional’ task and finish model – with perhaps six or seven meetings spread over a number of months – is still appropriate when scrutiny needs to dig into a complex topic in significant detail. However, the resource implications of such work, and its length, can make it unattractive for all but the most complex matters; and
- e) **By establishing a ‘standing panel’** – this falls short of establishing a whole new committee but may reflect a necessity to keep a watching brief over a critical local issue, especially where members feel they need to convene regularly to carry out that oversight. Again, the resource implications of this approach means that it will be rarely used.

7. Evidence Sessions

59. Evidence sessions are a key way in which scrutiny committees inform their work. They might happen at formal committee, in less formal ‘task and finish’ groups or at standalone sessions.

Good preparation is a vital part of conducting effective evidence sessions. Members should have a clear idea of what the committee hopes to get out of each session and appreciate that success will depend on their ability to work together on the day.

How to plan

60. Effective planning does not necessarily involve a large number of pre-meetings, the development of complex scopes or the drafting of questioning plans. It is more often about setting overall objectives and then considering what type of questions (and the way in which they are asked) can best elicit the information the committee is seeking. This applies as much to individual agenda items as it does for longer evidence sessions – there should always be consideration in advance of what scrutiny is trying to get out of a particular evidence session.

Chairs play a vital role in leading discussions on objective-setting and ensuring all members are aware of the specific role each will play during the evidence session.

61. As far as possible there should be consensus among scrutiny members about the objective of an evidence session before it starts. It is important to recognise that members have different perspectives on certain issues, and so might not share the objectives for a session that are ultimately adopted. Where this happens, the Chair will need to be aware of this divergence of views and bear it in mind when planning the evidence session.
62. Effective planning should mean that at the end of a session it is relatively straightforward for the chair to draw together themes and highlight the key findings. It is unlikely that the committee will be able to develop and agree recommendations immediately, but, unless the session is part of a wider inquiry, enough evidence should have been gathered to allow the chair to set a clear direction.
63. After an evidence session, the committee might wish to hold a short ‘wash-up’ meeting to review whether their objectives were met and lessons could be learned for future sessions.

Developing recommendations

64. The development and agreement of recommendations is often an iterative process. It will usually be appropriate for this to be done only by members, assisted by co-optees where relevant. When deciding on recommendations, however, members should have due regard to advice received from officers, particularly the Monitoring Officer.

65. The drafting of reports is usually, but not always, carried out by officers, directed by members.
66. Authorities draft reports and recommendations in a number of ways, but there are normally three stages:
- i. the development of a 'heads of report' – a document setting out general findings that members can then discuss as they consider the overall structure and focus of the report and its recommendations;
 - ii. the development of those findings, which will set out some areas on which recommendations might be made; and
 - iii. the drafting of the full report.
67. Recommendations should be evidence-based and SMART, i.e. specific, measurable, achievable, relevant and timed. Where appropriate, committees may wish to consider sharing them in draft with interested parties.
68. Committees should bear in mind that often six to eight recommendations are sufficient to enable the authority to focus its response, although there may be specific circumstances in which more might be appropriate.

Sharing draft recommendations with executive members should not provide an opportunity for them to revise or block recommendations before they are made. It should, however, provide an opportunity for errors to be identified and corrected, and for a more general sense-check.

Annex 1: Illustrative Scenario – Creating an Executive-Scrutiny Protocol

An executive-scrutiny protocol can deal with the practical expectations of scrutiny committee members and the executive, as well as the cultural dynamics.

Workshops with scrutiny members, senior officers and Cabinet can be helpful to inform the drafting of a protocol. An external facilitator can help bring an independent perspective.

Councils should consider how to adopt a protocol, e.g. formal agreement at scrutiny committee and Cabinet, then formal integration into the Council's constitution at the next Annual General Meeting.

The protocol, as agreed, may contain sections on:

- The way scrutiny will go about developing its work programme (including the ways in which senior officers and Cabinet members will be kept informed);
- The way in which senior officers and Cabinet will keep scrutiny informed of the outlines of major decisions as they are developed, to allow for discussion of scrutiny's potential involvement in policy development. This involves the building in of safeguards to mitigate risks around the sharing of sensitive information with scrutiny members;
- A strengthening and expansion of existing parts of the code of conduct that relate to behaviour in formal meetings, and in informal meetings;
- Specification of the nature and form of responses that scrutiny can expect when it makes recommendations to the executive, when it makes requests to the executive for information, and when it makes requests that Cabinet members or senior officers attend meetings; and
- Confirmation of the role of the statutory scrutiny officer, and Monitoring Officer, in overseeing compliance with the protocol, and ensuring that it is used to support the wider aim of supporting and promoting a culture of scrutiny, with matters relating to the protocol's success being reported to full Council through the scrutiny Annual Report.

Annex 2: Illustrative Scenario – Engaging Independent Technical Advisers

This example demonstrates how one Council's executive and scrutiny committee worked together to scope a role and then appoint an independent adviser on transforming social care commissioning. Their considerations and process may be helpful and applicable in other similar scenarios.

Major care contracts were coming to an end and the Council took the opportunity to review whether to continue with its existing strategic commissioning framework, or take a different approach – potentially insourcing certain elements.

The relevant Director was concerned about the Council's reliance on a very small number of large providers. The Director therefore approached the Scrutiny and Governance Manager to talk through the potential role scrutiny could play as the Council considered these changes.

The Scrutiny Chair wanted to look at this issue in some depth, but recognised its complexity could make it difficult for her committee to engage – she was concerned it would not be able to do the issue justice. The Director offered support from his own officer team, but the Chair considered this approach to be beset by risks around the independence of the process.

She talked to the Director about securing independent advice. He was worried that an independent adviser could come with preconceived ideas and would not understand the Council's context and objectives. The Scrutiny Chair was concerned that independent advice could end up leading to scrutiny members being passive, relying on an adviser to do their thinking for them. They agreed that some form of independent assistance would be valuable, but that how it was provided and managed should be carefully thought out.

With the assistance of the Governance and Scrutiny Manager, the Scrutiny Chair approached local universities and Further Education institutions to identify an appropriate individual. The approach was clear – it set out the precise role expected of the adviser, and explained the scrutiny process itself. Because members wanted to focus on the risks of market failure, and felt more confident on substantive social care matters, the approach was directed at those with a specialism in economics and business administration. The Council's search was proactive – the assistance of the service department was drawn on to make direct approaches to particular individuals who could carry out this role.

It was agreed to make a small budget available to act as a 'per diem' to support an adviser; academics were approached in the first instance as the Council felt able to make a case that an educational institution would provide this support for free as part of its commitment to Corporate Social Responsibility.

Three individuals were identified from the Council's proactive search. The Chair and Vice-Chair of the committee had an informal discussion with each – not so much to establish their skills and expertise (which had already been assessed) but to give a sense about

their 'fit' with scrutiny's objectives and their political nous in understanding the environment in which they would operate, and to satisfy themselves that they will apply themselves even-handedly to the task. The Director sat in on this process but played no part in who was ultimately selected.

The independent advice provided by the selected individual gave the Scrutiny Committee a more comprehensive understanding of the issue and meant it was able to offer informed advice on the merits of putting in place a new strategic commissioning framework.

Annex 3: Illustrative Scenario – Approaching an External Organisation to Appear before a Committee

This example shows how one council ensured a productive scrutiny meeting, involving a private company and the public. Lessons may be drawn and apply to other similar scenarios.

Concerns had been expressed by user groups, and the public at large, about the reliability of the local bus service. The Scrutiny Chair wanted to question the bus company in a public evidence session but knew that she had no power to compel it to attend. Previous attempts to engage it had been unsuccessful; the company was not hostile, but said it had its own ways of engaging the public.

The Monitoring Officer approached the company's regional PR manager, but he expressed concern that the session would end in a 'bunfight'. He also explained the company had put their improvement plan in the public domain, and felt a big council meeting would exacerbate tensions.

Other councillors had strong views about the company – one thought the committee should tell the company it would be empty-chaired if it refused to attend. The Scrutiny Chair was sympathetic to this, but thought such an approach would not lead to any improvements.

The Scrutiny Chair was keen to make progress, but it was difficult to find the right person to speak to at the company, so she asked council officers and local transport advocacy groups for advice. Speaking to those people also gave her a better sense of what scrutiny's role might be.

When she finally spoke to the company's network manager, she explained the situation and suggested they work together to consider how the meeting could be productive for the Council, the company and local people. In particular, this provided her with an opportunity to explain scrutiny and its role. The network manager remained sceptical but was reassured that they could work together to ensure that the meeting would not be an 'ambush'. He agreed in principle to attend and also provide information to support the Committee's work beforehand.

Discussions continued in the four weeks leading up to the Committee meeting. The Scrutiny Chair was conscious that while she had to work with the company to ensure that the meeting was constructive – and secure their attendance – it could not be a whitewash, and other members and the public would demand a hard edge to the discussions.

The scrutiny committee agreed that the meeting would provide a space for the company to provide context to the problems local people are experiencing, but that this would be preceded by a space on the agenda for the Chair, Vice-chair, and representatives from two local transport advocacy groups to set out their concerns. The company were sent in

advance a summary of the general areas on which members were likely to ask questions, to ensure that those questions could be addressed at the meeting.

Finally, provision was made for public questions and debate. Those attending the meeting were invited to discuss with each other the principal issues they wanted the meeting to cover. A short, facilitated discussion in the room led by the Chair highlighted the key issues, and the Chair then put those points to the company representatives.

At the end of the meeting, the public asked questions of the bus company representative in a 20-minute plenary item.

The meeting was fractious, but the planning carried out to prepare for this – by channelling issues through discussion and using the Chair to mediate the questioning – made things easier. Some attendees were initially frustrated by this structure, but the company representative was more open and less defensive than might otherwise have been the case.

The meeting also motivated the company to revise its communications plan to become more responsive to this kind of challenge, part of which involved a commitment to feed back to the scrutiny committee on the recommendations it made on the night.

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3. OVERVIEW & SCRUTINY AND COMMITTEE SYSTEM ARRANGEMENTS

Overview and scrutiny committees were introduced in 2000 as part of new executive governance arrangements to ensure that members of an authority who were not part of the executive could hold the executive to account for the decisions and actions that affect their communities.

Overview and scrutiny committees have statutory powers to scrutinise decisions the executive is planning to take, those it plans to implement, and those that have already been taken/implemented. Recommendations following scrutiny enable improvements to be made to policies and how they are implemented. Overview and scrutiny committees can also play a valuable role in developing policy.

Effective overview and scrutiny should:

- Provide constructive 'critical friend' challenge;
- Amplify the voices and concerns of the public;
- Be led by independent people who take responsibility for their role; and
- Drive improvement in public services.

The requirement for local authorities in England to establish overview and scrutiny committees is set out in sections 9F to 9FI of the Local Government Act 2000 as amended by the Localism Act 2011.

The Localism Act 2011 amended the Local Government Act 2000 to allow councils to revert to a non-executive form of governance - the 'committee system'. Councils who adopt the committee system are not required to have overview and scrutiny but may do so if they wish.

The statutory guidance on Overview & Scrutiny published by the Ministry of Housing, Communities & Local Government in 2019 does not impact on any other legislation or guidance but is intended as 'best practice' for local authorities – particularly in relation to creating a culture where scrutiny can thrive.

Legislation has been strengthened and updated since 2000, most recently to reflect new governance arrangements with combined authorities. Requirements for combined authorities are set out in Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009.

Current overview and scrutiny legislation recognises that authorities are democratically-elected bodies who are best-placed to determine which overview and scrutiny arrangements best suit their own individual needs, and so gives them a great degree of flexibility to decide which arrangements to adopt.

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4. Current Arrangements - Terms of Reference for Overview & Scrutiny Committees at Wirral

The following is an excerpt from the Wirral Council Constitution (June 2019) stating the general role and terms of reference for the four overview & scrutiny committees currently in operation.

Article 6 – Overview and Scrutiny Committees

6.1 Appointment

The Council will annually constitute and appoint four Overview and Scrutiny Committees, comprising of fifteen councillors, to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000.

6.2 General Role

Within their terms of reference, Overview and Scrutiny Committees will:

- (a) Review and / or scrutinise the decisions made or actions taken in connection with the discharge of the Council's functions;
- (b) Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny committee about their activities and performance;
- (c) Support joint work planning arrangements in developing an integrated scrutiny work programme;
- (d) Make reports and / or recommendations to the Council and / or the Cabinet in connection with any policy or the discharge of any functions;
- (e) Exercise the right to call in, for reconsideration decisions made but not yet implemented by the Executive function of the Council;
- (f) Assist the Council and the Cabinet in the development and monitoring of the annual budget;
- (g) Review and scrutinise the Council's transformation governance and processes as well as monitoring the outcomes and benefits of the Transformation Programme;
- (h) Review and scrutinise the Council's partnership arrangements;
- (i) Review and scrutinise the Council's commissioning activities;
- (j) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and / or particular service areas; and
- (k) Have the authority to establish task & finish groups, standing panels and subcommittees as necessary to discharge the functions falling within the remit of the committee.

6.3 Overview and Scrutiny Committees Terms of Reference

The Overview and Scrutiny Committees are aligned to the Wirral Plan themes of People, Business and Environment with responsibility for reviewing and / or scrutinising decisions made or actions taken in connection with the pledges that make up the respective theme of the Wirral Plan. The Overview and Scrutiny Committees are also responsible for scrutinising the strategies, policies, partnerships, transformation projects / programmes and supporting functions which operate in support of their Wirral Plan theme.

Adult Care & Health Overview and Scrutiny Committee

<p>Wirral Plan Pledges</p>	<ul style="list-style-type: none"> • Older People Live well • People with disabilities live independently
<p>Scope of the Committee</p>	<p>To review and / or scrutinise any strategies and plans, and the delivery of these plans, including:</p> <ul style="list-style-type: none"> • Ageing well Strategy • All Age Disability Strategy • Safeguarding Strategy • Health and Wellbeing Strategy <p>To review and / or scrutinise the commissioning, management and performance of services for:</p> <ul style="list-style-type: none"> • Older People • Health and Social Care • Mental Health (all age) • Learning Disabilities (all age) • Adult Safeguarding <p>To perform the Council’s statutory responsibilities to undertake health scrutiny. The Committee will:</p> <ul style="list-style-type: none"> • Review and scrutinise any matter relating to the planning, provision and operation of health services in the Borough, including significant change to service provision and those jointly commissioned or delivered by the council. • Require the provision of information or the attendance of an officer of a local NHS body to answer questions and provide explanations about the planning, provision and operation of health

	<p>services in the Borough.</p> <ul style="list-style-type: none"> • Participate in cross-boundary overview and scrutiny of health services with other local authorities; including the establishment of joint committees; or the delegation of functions to another local authority, where appropriate. • Report to the Secretary of State for Health: <ul style="list-style-type: none"> - Where the committee is concerned that consultation on substantial variation or development of services has been inadequate.
Cross-Cutting Themes	<ul style="list-style-type: none"> • Wirral residents live healthier lives pledge (link with Environment) • Liverpool City Region Combined Authority

Children and Families Overview and Scrutiny Committee

Wirral Plan Pledges	<ul style="list-style-type: none"> • Children are ready for school • Young people are ready for work and adulthood • Vulnerable children reach their full potential • Reduce child and family poverty • Zero tolerance to domestic violence
Scope of the Committee	<p>To review and / or scrutinise any strategies and plans, and the delivery of these plans, including:</p> <ul style="list-style-type: none"> • Wirral’s Strategy for Children, Young People and Families • Improving Life Chances Strategy • Zero Tolerance to Domestic Abuse Strategy • Safeguarding Strategy • Schools Strategy <p>To review and / or scrutinise the commissioning, management and performance of services for:</p> <ul style="list-style-type: none"> • Children’s Care • Children’s Services • Education • Children’s Safeguarding

Cross-Cutting Themes	<ul style="list-style-type: none"> • People with disabilities live independently (link with Adult Care and Health) • Liverpool City Region Combined Authority
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Business Overview and Scrutiny Committee

Wirral Plan Pledges	<ul style="list-style-type: none"> • Greater job opportunities in Wirral • Workforce skills match business needs • Increase inward investment • Thriving small businesses • Vibrant Tourism economy • Transport and technology fit for the future • Assets and buildings are fit for purpose
Scope of the Committee	<p>To review and / or scrutinise any strategies and plans, and the delivery of these plans, including:</p> <ul style="list-style-type: none"> • Wirral's Growth Plan • Wirral Visitor Economy Plan • Wirral's Transport Strategy • Wirral's Digital Strategy • Wirral Asset Strategy <p>To review and / or scrutinise the commissioning, management and performance of services for:</p> <ul style="list-style-type: none"> • Growth • Transport • Digital • Regulatory Services • Asset Management • Customer Services
Cross-Cutting Themes	<ul style="list-style-type: none"> • Good quality Housing that meets the needs of residents pledge (Link with Environment) • Community services are joined up and accessible pledge (link with Environment) • Liverpool City Region Combined Authority

Environment Overview and Scrutiny Committee

<p>Wirral Plan Pledges</p>	<ul style="list-style-type: none"> • Leisure and cultural opportunities for all • Wirral Residents live healthier lives • Community services are joined up and accessible • Good quality housing that meets the needs of residents • Wirral's Neighbourhoods are safe • Attractive local environment for Wirral residents
<p>Scope of the Committee</p>	<p>To review and / or scrutinise any strategies and plans, and the delivery of these plans, including:</p> <ul style="list-style-type: none"> • Wirral's Leisure Strategy • Wirral's Culture Strategy • Wirral Residents Live Healthier Lives Strategy • Neighbourhood Strategy • Housing Strategy • Ensuring Wirral's Neighbourhoods are Safe • Managing Our Waste Strategy 2015 - 2020 • Loving Our Environment Strategy <p>To review and / or scrutinise the commissioning, management and performance of services for:</p> <ul style="list-style-type: none"> • Leisure • Community Services • Safer Neighbourhoods • Housing Services • Environment <p>To perform the Council's statutory responsibilities to undertake scrutiny in relation to:</p> <ul style="list-style-type: none"> • The review and scrutiny of the flood and coastal erosion risk management functions under the Flood and Water Management Act 2010. • The review and scrutiny of decisions made or action taken in connection with the discharge by the Responsible Authorities and Co-operating bodies of the Wirral Community Safety Partnership of their crime and disorder functions.

Cross-Cutting Themes	<ul style="list-style-type: none">• Vibrant tourism economy pledge (link with Business)• Transport & Technology Infrastructure fit for the future (link to Business)• Liverpool City Region Combined Authority
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Further information regarding statutory responsibilities in relation to health, flood risk management and crime & disorder can be found via the following links;

- [Health Scrutiny](#)
- [Flood Risk Management](#)
- [Crime and Disorder](#)

5. Previous Scrutiny Arrangements in Wirral

This note provides an overview of historical governance arrangements at Wirral Council since 2001 - up to and including the present day.

Pre 2001 Committee System

Wirral operated under a Committee System. This allowed Wirral to decide how its functions, i.e. the powers given to it by central government, were delivered. Under a Committee System, it is possible for the full council to make all decisions, or delegate certain responsibilities to a committee, sub-committee or an officer. There is no limit to the number of committees and authorities who are able to discharge their functions jointly with other authorities. The legislation does not prescribe how local authorities adopting a committee system should structure themselves and allows them choice over whether they should have one or more overview and Scrutiny Committees.

- Construction Services
- Economic Regeneration
- Education
- Environment Health & Consumer Protection
- Highways, Transport & Engineering
- Housing
- Leisure
- Pensions
- Planning
- Planning Development Control
- Policy & Resources
- General Purposes & Admin sub
- Personnel Sub
- General Panel
- Childrens Panel
- Property Services
- Social Services
- General Panel
- Adult Community Care Panel

2001/02 – 2005/06 – Select Committees

Wirral moved from a Committee System to a Select Committee System following The Local Govt Act 2001 which required all local authorities with a population of 85,000 or more, including Wirral, to change their governance arrangements from a committee system to 'executive arrangements'. The Act allowed three options for executive arrangements: a council leader and cabinet model; a mayor and cabinet model; and a mayor and council manager model. Wirral opted for the leader and cabinet model.

2001/02 – Select Committees

- Environment & Planning Strategy
- Social & Health Services
- Housing & Community Safety
- Social Inclusion
- Social Health Services
- transportation & Infrastructure
- Cultural & Community Services
- Environment & Planning Strategy
- Education & Lifelong Learning
- Finance & Best Value & Construction Services
- Central Services
- Transportation & Infrastructure

2002/03 – Select Committees

- Finance & Corporate Management
- Environment, Transportation & Planning Strategy
- Social Care & Health
- Education & Cultural
- Housing & Community Safety
- Joint Housing & Community Safety & Social Health Services

2003/04 – Select Committees

- Finance & Corporate Management
- Economic Regeneration & Planning Strategy
- Social Care & Health
- Education & Cultural Services
- Environment & Transportation
- Housing & Community Safety

2004/05 – Select Committees

- Finance & Corporate Management
- Economic Regeneration & Planning Strategy
- Social Care & Health
- Education & Cultural Services
- Environment & Transportation
- Housing & Community Safety

2005/06 – Select Committees

- Finance & Corporate Management
- Economic Regeneration & Planning Strategy
- Social Care & Health
- Education & Cultural Services
- Environment & Transportation
- Housing & Community Safety

2006/07 – 2008/09 – O&S Committees

During this Period, Wirral Council had between 9 and 12 themed Overview & Scrutiny Committees.

2006/07 – O&S Committees

- Corporate Services
- Housing & Community Safety
- Regeneration & Planning Strategy
- Social Care Health & Inclusion
- Street scene & Transport
- Children Services & Lifelong Learning
- Finance & Best Value
- Community and Customer Engagement
- Environment

2007/08 – O&S Committees

- Children Services & Lifelong Learning
- Community & Customer Engagement
- Corporate Services
- Culture Tourism & Leisure
- Environment
- Finance & Best Value
- Cheshire & Wirral joint CC
- Housing & Community Safety
- Regeneration Planning & Strategy
- Social Care Health & Inclusion
- Street Scene & Transport

2008/09 – O&S Committees

- Regeneration Planning & Strategy
- Finance & Best Value
- Street Scene & Transport
- Corporate Services

- Culture Tourism & Leisure
- Community & Customer Engagement
- Social Care Health & Inclusion
- Street Scene & Transport
- Cheshire & Wirral Joint
- Children Services & Lifelong Learning
- Environment
- Housing & Community Safety

2009/10 – 2012/13 – O&S Committees including Scrutiny Programme Board

During this period, Wirral Council established a Scrutiny Programme Board which allocated, approved and Co-ordinated the work programme for each of the themed O&S Committees. The Board reviewed cross-cutting issues outside of the terms of reference of the themed committees as well as considering call-in relating to any executive function and allocating to the relevant O&S Committee as appropriate.

2009/10 – O&S Committees with Programme Board

- Social Care Health & Inclusion
- Cheshire & Wirral Joint
- Scrutiny Programme Board
- Sustainable Communities
- Children & Young People
- Economy & Regeneration
- Health & Wellbeing
- Council Excellence

2010/11 – O&S Committees with Programme Board

- Cheshire & Wirral Joint
- Children & Young People
- Scrutiny Programme Board
- Council Excellence
- Economy & Regen
- Sustainable communities
- Health & Wellbeing

2011/12 – O&S Committees with Programme Board

- Children & Young People
- Economy & Regen
- Sustainable Communities
- Scrutiny Programme Board

- Health & Wellbeing
- Cheshire & Wirral Joint
- Council Excellence

2012/13 - O&S Committees with Programme Board

- Scrutiny Programme Board
- Children & Young people
- Economy & Regen
- Health & Wellbeing
- Sustainable Communities
- Council Excellence

2013/14 – 2015/16 - Policy & Performance - including Co-ordinating Committee

From April 2013 as part of a series of changes to the Council's governance and constitution four Policy and Performance Committees were created, with one aligned to each of the Council's three Strategic Directorates and an additional Co-ordinating Committee responsible for cross-cutting matters and call-in. These Committees were Families & Wellbeing, Regeneration & Environment, Transformation & Resources. Policy and Performance Committees were a rebranded Overview & Scrutiny Committees and carried out similar functions.

2013/14 - Policy & Performance

- Families & Wellbeing
- Regeneration & Environment
- Transformation & Resources
- Co-ordinating Committee

2014/15 – Policy & Performance

- Co-ordinating committee
- Families & Wellbeing
- Transformation & Resources
- Regeneration & Environment

2015/16 – Policy & Performance

- Co-ordinating Committee
- Families & Wellbeing
- Transformation & Resources
- Regeneration & Environment
- Children's Sub Committee

2016/17 – O&S Committees including a Children Sub-Committee

For this year Wirral Council established the three O&S Committees under the themes of People, Business & Environment. A Children sub-committee was also established to focus on delivery of the 4 related Wirral Plan Pledges, Children Ready for School, Young People Are Ready For Work & Adulthood, Vulnerable Children Reach Their Full Potential and Child Poverty.

2016/17 – O&S Committees including Children Sub Committee

- Environment
- Business
- People
- Children's Sub Committee

• 2017/18 – 2019/20 – 4 O&S Committees (people committee separated)

Moved to the current system which established separate O&S Committees for Adult Care & Health and Children & Young People which replaced the People themed O&S Committee and the Children Sub Committee.

2017/18 – O&S Committees

- Business
- Environment
- Adult Care & Health
- Children & Families

2018/19 – O&S Committees

- Business
- Environment
- Adult Care & Health
- Children & Families

2019/20 – O&S Committees

- Business
- Environment
- Adult Care & Health
- Children & Families

6. GOVERNANCE ARRANGEMENTS AT WIRRAL'S STATISTICAL NEIGHBOURS

In order to assist with decision making, a comparison table of Local Authorities governance arrangements has been compiled.

The Scrutiny department contacted 12 Local Authorities who are classed as our statistical neighbours. Out of the 12 Local Authorities contacted for a phone interview, 8 responded. For the 4 Local Authorities who did not respond, basic information has been taken from their websites.

All of the Local Authorities questions currently use the strong leader governance model. One Local Authority had considered going back to the Committee System, however there was not enough appetite among Members.

All authorities had a minimum of 1 Overview and Scrutiny Committee, however there is some variance in names, with a number referred to as Select Committees or Sub Committees. This is largely influenced by how O&S has been set up as several Local Authorities have O&S Management Boards which approve, monitor and co-ordinate the work programmes.

The volume of committee meetings varies, with notable difference in agendas, some receiving update reports and others more targeted Agenda Items.

Some Local Authorities have no dedicated scrutiny officer, and the work programme is managed by Committee Services. Some Local Authorities have noted that capacity issues have led to less scrutiny work being completed outside of Committee. One Local Authority, Durham have a principal Scrutiny Officers, 3 Overview & Scrutiny Officers and a Scrutiny Support officer. Kirklees Council do not have dedicated Scrutiny Officers but are supported by officers who have a more generic job description and who offer support to other committees and officers including Cabinet and Executive Teams.

The Comparison Table is included below for information.

Local Authority	Governance arrangements	Number of Committees	Meetings per Committee (municipal year) year	Number of Councillors	Cabinet Member Attends Committee as standard	Other Additional information
Bury	Leader and Cabinet	3	6 (4 for the Joint Health with NHS)	51 (3 per Ward)	By invite only	<p>Bury has 3 O&S committees</p> <ol style="list-style-type: none"> 1. Health 2. Joint O&S with NHS Trust 3. The third committee is just referred to as O&S Committee
Calderdale	Leader and Cabinet	4	10 per committee	51(3 per Ward)	Yes, but considering moving to invitation only following new guidance	<p>Calderdale have 4 O&S committees</p> <ol style="list-style-type: none"> 1. Adult care and health 2. Children and Young People, 3. Place Strategy & Performance 4. They also have a Flooding Scrutiny Panel <p>They also have 3 Scrutiny Officers.</p>

Local Authority	Governance arrangements	Number of Committees	Meetings per Committee (municipal year) year	Number of Councillors	Cabinet Member Attends Committee as standard	1. Other Additional information
Dudley*	Leader and Cabinet	5	5	72 (3 per Ward)	n/l	n/k
Durham	Leader and Cabinet	5	5	126 (mix or 3, 2 and single member wards) 10 member. (63 Wards)	By invite only	<p>Durham have a separate Corporate Overview & Scrutiny Management Board which oversees the 5 O&S-Committees</p> <ol style="list-style-type: none"> 1. Adults wellbeing & Health, 2. CYP, Economy & Enterprise, 3. Environment & Sustainability, 4. Safer & Stronger Communities. <p>Undertake regular T&F reviews. The Scrutiny team consists of a Principal scrutiny Officer, 3 O&S officers and Scrutiny support assistant plus The Statutory Scrutiny Office (Head of Strategy) and Corporate Scrutiny & Performance manager. The O&S Chairs are appointed at annual council – don't have opposition chairs.</p>

Local Authority	Governance arrangements	Number of Committees	Meetings per Committee (municipal year) year	Number of Councillors	Cabinet Member Attends Committee as standard	Other Additional information
North Tyneside	Leader and Cabinet	8	7	60 (3 per ward)		Policy & Development O&S then subcommittee; 1. ASC 2. Health & Wellbeing, 3. Children Education & Skills. 4 Culture & Leisure, 5. Economic Prosperity, 6. Environment, 7. Finance, 8. Housing
Northumberland*	Leader and Cabinet	5	12	67	n/k	n/k
Redcar & Cleveland *	Leader and Cabinet	4	n/k	59	n/k	n/k
Rotherham *	Leader and Cabinet	1 management O&S and 3 select Committees (classed as scrutiny)	8	63 (3 per ward)	n/k	n/k
Sefton	Leader and Cabinet	4 & Joint Health Scrutiny Committee Cheshire and Merseyside.	5	72 (3 per Ward)	They are invited and added to the agenda – attendance is hit or miss though	Sefton have 4 O&S Committees Performance & corporate 1. Children's services 2. Regen & Environment 3. Health and Social Care There were 4 full time scrutiny officers, there are now 2. They do have working groups and task and finishes; however, no set number and it depends on the Committee requirement

Local Authority	Governance arrangements	Number of Committees	Meetings per Committee (municipal year) year	Number of Councillors	Cabinet Member Attends Committee as standard	Other Additional information
St Helens	Leader and cabinet	6	4-5	45	No invitation only	St Helens have 1 overarching scrutiny committees & 5 O&S, <ol style="list-style-type: none"> 1. Safer communities 2. Environment 3. CYP 4. HDC They do task and finish work but not workshops or spotlight sessions.
Torbay	Leader and cabinet	1	12	36 Councillors (six 3 members and nine two member wards)	Invited as a standard invitation	Torbay are working on new scrutiny arrangements. Previously, there has been 4/5 Task & finish per year with 2 week timescales. There is 1 Governance officer who covers everything Inc. Scrutiny.
Wirral	Committee System	4	5	66 (3 per Ward)	No	

- Local authorities marked with a * have not responded to enquires. All information has been taken from their websites and public documents.

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7. Local Authorities in the UK – Changes to Governance Arrangements and Implementation of the Committee System Model

This note provides information on five local authorities in the UK that made changes to their governance arrangements and moved to a committee model following the Localism Act 2011.

London Borough of Sutton

Key Points/Overview

- Committee system adopted in May 2012. Arrangements were reviewed in May 2013 with no significant amendments to constitution or working practices.
- Sutton's committees meet 5 times per year, with urgent decisions made through the Leader and Chief Executive (although this was not used during the first year of the new arrangements)
- Sutton have one Overview & Scrutiny Committee and an Audit and Governance Committee.
- Task and Finish groups are still established for key considerations.

Sutton Council were one of the first councils to introduce a committee system. The rationale for change came from the majority Liberal Democrat group and, following the Localism Act 2011, a cross-party working group was formed to review the process. Governance arrangements were reviewed after one year, with no significant amendments to working practices as a result.

Sutton has five standing committees: Strategy and Resources Committee; Environment and Neighbourhood Committee; Housing, Economy and Business Committee; People Committee and the Health and Wellbeing Board – along with a Shareholdings Board. Sutton Council have a single scrutiny committee that was formally established to undertake the Council's statutory scrutiny responsibilities of health, crime & disorder and flood risk management. Members also participate in joint scrutiny arrangements with South West London and Surrey County Council Joint Health Overview and Scrutiny Committee. The scrutiny committee have three standard meetings during the municipal year and in 2017 established a Task & Finish group to look at the implementation of a new waste collection service.

Reading Borough Council

Key Points/Overview

- Committee system adopted in May 2013.
- Reading is a unitary authority, with a range of standing committees and sub-committees covering the authority's functions – but no overview and scrutiny committee.

Reading Borough Council adopted the committee system of governance following a request by the majority Labour group to involve more backbenchers in the work of the Council. The committee system was brought in in May 2013. There was cross-

party agreement to the changes and no real issues during the implementation period.

Reading's key objective in changing the governance system was that they wanted 'no extra meetings and no extra costs'. Three service committees were set up: Adult Social Care, Children's Services and Education; Housing, Neighbourhoods and Leisure; and Strategic Environment, Planning & Transport – each of which meet 4 to 5 times each municipal year. There is also a Policy Committee – meeting monthly - which has oversight of strategy, policy and budget including service performance and improvement across all council services. Whilst there is no dedicated scrutiny committee, the statutory overview and scrutiny functions of the authority are exercised by each committee with regard to services within their remit. Each standing committee can also set up and appoint Task & Finish groups to undertake more detailed scrutiny reviews.

Brighton and Hove City Council

Key Points/Overview

- The Council established its committee structure in 2011.
- This system is reviewed each year.
- The only current scrutiny function is a Health Overview and Scrutiny Committee.

In 2011, Brighton and Hove Council had no party in overall control and there was cross-party agreement to return to a committee system following the Localism Act. Like other councils choosing to adopt a committee system, Brighton & Hove set out principles for change, such as the new system should not cost more or require increased numbers of meetings and paperwork. Although initially retaining two scrutiny committees, now only one committee operates at the Council and carries out the statutory overview and scrutiny function in relation to health. It also has a remit to scrutinise social care and education issues relating to both adults and children.

There is a procedure in place for urgent decisions wherein a director can make a decision in consultation with the Chair of the committee, and this is reported back to the next meeting. This would be unusual however, and it is seen as preferable to take a late report to a committee if necessary.

Norfolk County Council

Key Points/Overview

- The committee system was set up in 2014. The system was reviewed after 6 months.
- Five standing committees were established, but no overview & scrutiny committee.
- The Council returned to the Cabinet model of governance in May 2019.

Norfolk County Council set up a committee governance steering group in 2014 to consider a new committee system. Although the new governance arrangements

were not favoured by all political parties, the County Council voted for a proposal to move away from the Cabinet model in favour of a form of committee governance from May 2014.

There were five standing committees established; Adult Social Care, Children's Services, Communities and Environment, Development and Transport - and a Policy and Resources committee which also monitored performance, budget and risk for all Council services. Issues of significance could be referred to full council for decision, either because a committee has requested it, the leader of the council and the head of paid service (managing director) considers the issue to be of importance. There were no overview and scrutiny committees established as part of these arrangements but there was an opportunity for each committee to create its own task and finish group.

In May 2019, Norfolk County Council returned to a Cabinet style of governance, and currently has one overview & scrutiny committee in operation. This change was largely due to the Conservative party regaining a majority and stating that a return to a Cabinet system would mean 'quicker decisions and more accountability'.

Nottinghamshire County Council

Key Points/Overview

- Adopted a committee system of governance in 2012.
- The Council have one scrutiny committee, the Health Scrutiny Committee, which focusses on health and care issues.
- The governance system is reviewed regularly to ensure that it is fit for purpose.

The change to the previous governance arrangements took place in 2012, with the proposal agreed by Full Council in January 2012, and the changes effective from May 2012. The rationale for change was a manifesto pledge made by the Conservative party to change the governance arrangements of the Council. Initially, decision-making committees were set up to mirror the previous Cabinet portfolios, with the structure changing over time to suit the Council's needs. As of 2019, there are 23 Committees and Sub-Committees, with an overarching Policy Committee and quarterly performance reports submitted by officers to the relevant committee for monitoring purposes. The current health scrutiny committee has 11 members and meets every 2 to 3 months.

Further reading on the governance changes referenced above;

<https://www.lgiu.org.uk/Changing-to-a-committee-system-in-a-new-era.pdf>

<https://www.cfps.org.uk/Rethinking-Governance.pdf>

<https://www.bbc.co.uk/news/uk-england-nottinghamshire-16653990>

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Review of Overview and Scrutiny

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Member Workshop

17 July 2019



Workshop Agenda

Introduction

- Overview and Scrutiny in Wirral
- Council resolution
- Scrutiny and Governance Reviews
- Workshop purpose and required outcomes

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Workshop Activity

Part 1 – Which elements of O&S should be included in new Wirral governance arrangements

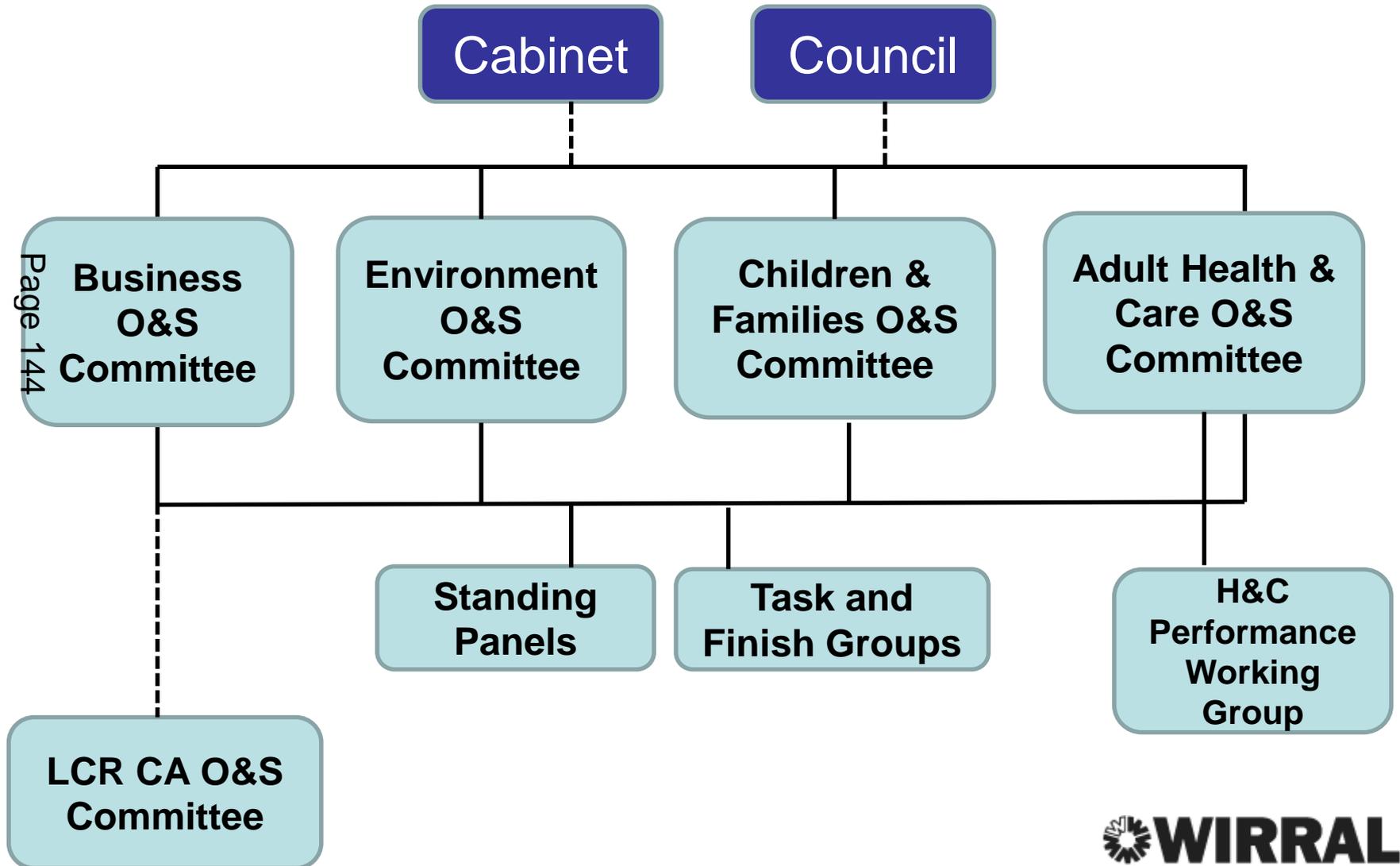
Part 2 – Develop preferred O&S Model for Wirral

Next steps

Purpose of Overview and Scrutiny

- A mechanism of regulation that supports good governance
- Principal power - influence the policies and decisions made by the council and other organisations delivering public services
- Scrutinise the operation of the Council and partners including NHS bodies, community safety and those related to flooding and coastal erosion
- No formal power to compel anyone to make changes
- Legal power to require that information is provided to it and that recommendations are responded to within a set time frame

Overview and Scrutiny in Wirral



O&S Oversight in Wirral

- Council services
- Key Partners:
 - NHS Health Partners
 - Adult Health and Care and Children & Families
 - Adult Health and Care Performance Panel
 - Flood Risk
 - Flood Risk Panel – reports to Environment
 - Community Safety
 - Community Safety Partnership – reports to Environment
- LCR Overview and Scrutiny

What are the issues with the Current System?

O&S doesn't look at the right things?

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Committee Members shape O&S work programmes!

What are the issues with the Current System?

Is Scrutiny having an impact?

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Recommendations made to cabinet - all accepted:

- Dogs PSPO (1) (not implemented)
- Commercial Strategy (4)
 - Celtic Manor (1)
 - Continuing Health Care Review (7)
 - Modern Slavery (5)
 - Health and Care Pooled Fund Workshop (6)

Culture and Scrutiny

Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities 2019

“The prevailing organisational culture, behaviours and attitudes of an authority will largely determine whether its scrutiny function succeeds or fails.”

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Establishing a member led strong organisational culture:

- Recognising scrutiny’s legal and democratic legitimacy
- Identifying a clear role and focus
- Ensuring early and regular engagement between the executive and scrutiny
- Managing disagreement
- Maintaining the interest of full Council in the work of the scrutiny committee
- Ensuring scrutiny members are supported in having an independent mindset

Council Resolution

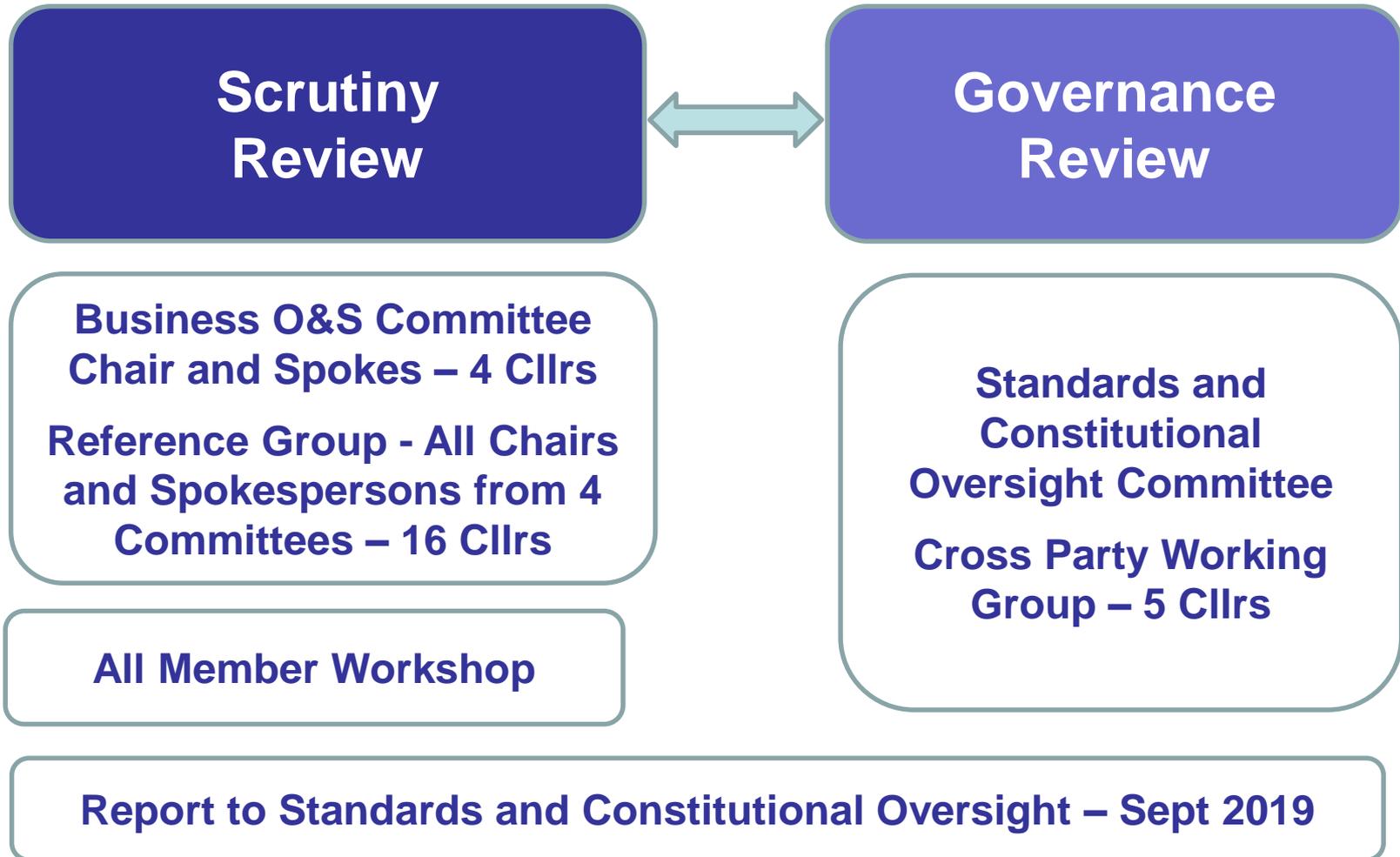
At the Council meeting on 14th May, 2019, the following resolution was agreed:

“That this is subject to the Council charging the:

- (a) Standards and Constitutional Oversight Committee to conduct a review of the governance arrangements of the Council, with the objective to produce, in September 2019, an interim report on options and preferred outline for further consideration; and
- (b) Business Overview & Scrutiny Committee conducting a review of the Council’s overview and scrutiny committee arrangements, in consultation with the Committee Chairs and group representatives, to consider the number of committees and their respective terms of reference to report back on suggested steps to improve the arrangement in sufficient time for them to be received and considered by the Standards and Constitutional Oversight Committee at its meeting in September.”**

The Reviews Underway

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Executive Model of Governance

- The Leader says WHO can make an executive decision
 - Leader or other individual cabinet member
 - Cabinet or committee of cabinet
 - Area committee
 - An officer
- Council can say HOW that decision is to be made
 - The Executive arrangements (Leader & Cabinet); and
- Council can form **overview and scrutiny** arrangements in a way that best suits it

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There is a wide range of arrangements within the executive form

Committee Model of Governance

- The Council and committees says who and how it can make a decision through standing orders
 - Council
 - Committee or sub-committee
 - Area committee
 - An officer
- Council can adopt an **overview and scrutiny** function or not

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There is a wide range of governance arrangements within the committee form

Hybrid Model of Governance - Kent

Executive

The Leader with the Cabinet Members comprises the Executive.

Cabinet Committees

Cabinet Committees are advisory committees of the Cabinet. Each Cabinet Committee is able to consider and make recommendations on the functions of the Council that are the responsibility of the Cabinet Member(s) for matters within the Committees remit. They also consider and either endorse or make recommendations on statutory Key and significant decisions to be taken by the Cabinet Members either collectively or individually.

[Membership approx.: 15-19]

Scrutiny

The Scrutiny Committee investigates issues affecting Kent County Council and Kent residents and makes recommendations to support the improvement of council services.

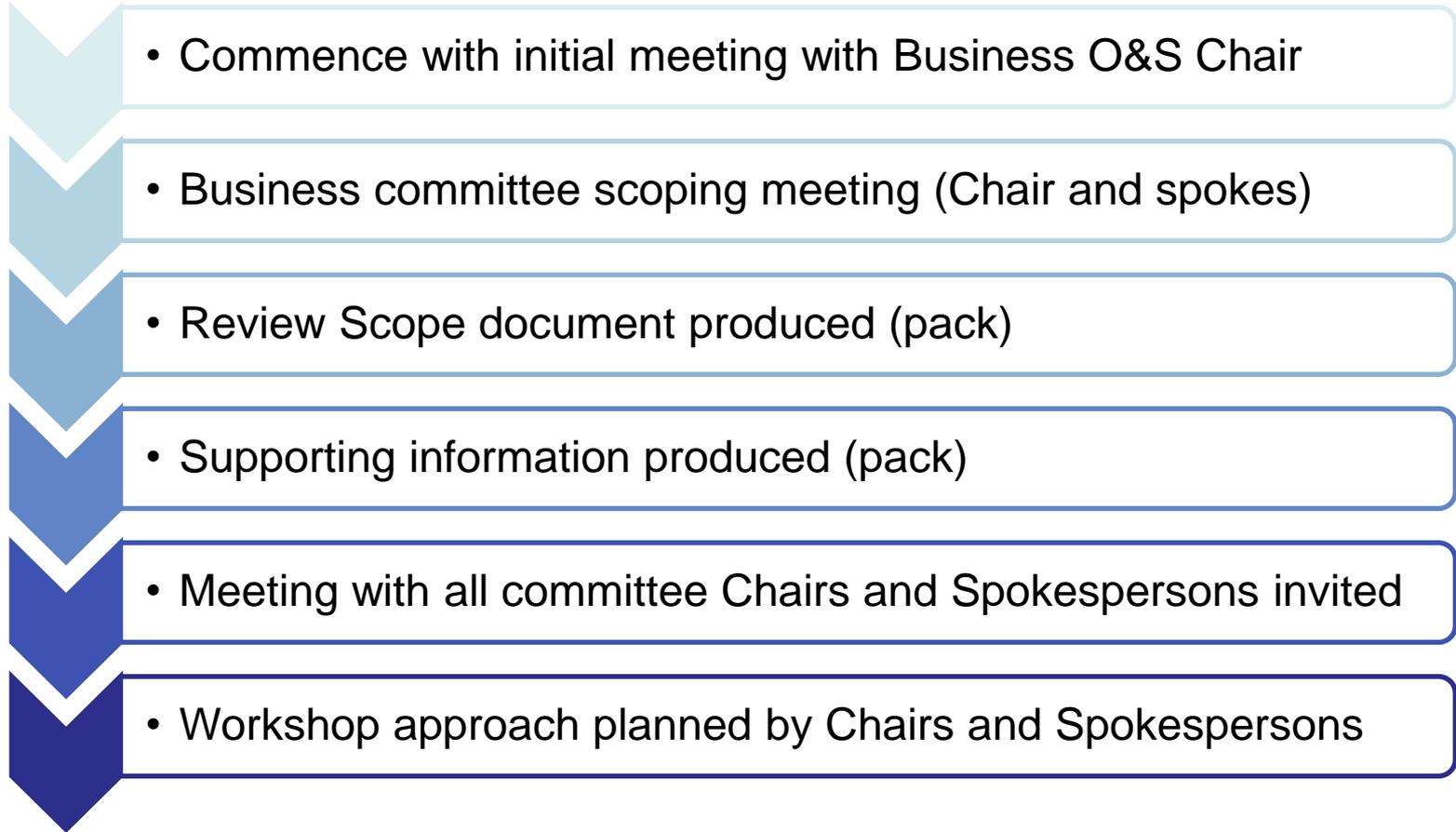
[Membership approx.: 10-16]

Select Committees

The Select Committee work programme is set by the Scrutiny Committee and endorsed by the Cabinet. *[Membership approx.: 4-9]*

Scrutiny Review - Progress To Date

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Workshop Purpose

Scrutiny Review Outcome:

To make recommendations to the Council's Standards and Constitutional Oversight Committee on the Council's scrutiny arrangements to consider the **number of committees** and their respective terms of reference to report back on suggested steps to **improve the arrangement**.

Report submission deadline: 22nd August

Standards Committee meeting date: 19th September

Discussion 1

Which elements of O&S do you want to be taken forward in the new model of Corporate Governance?

For example:

- What works well?
- What key principles of O&S are important?
- Organisational culture
- Pre-decision scrutiny
- Budget scrutiny
- Performance monitoring
- Should O&S be included if a committee/ hybrid model is developed?

20 minute discussion

Discussion 2

What is your preferred approach to develop a fit for purpose O&S model for Wirral?

For example:

- What would your ideal model of O&S be for Wirral?
- Should the O&S structure be based on existing Directorates, functional areas or strategic priorities?
- What about scrutiny of partners?
- How can it best provide pre-decision scrutiny?
- What about Call-In?

Packs to assist development of your optimum O&S model

40 minute activity

Next Steps

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- Workshop findings collated



- Scrutiny Review report drafted



- Scrutiny Review Working Group discussion



- Findings shared with the Governance Review



- Working group finalise report



- Report to Standards Committee 19 Sept 2019

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

26th September 2019

REPORT TITLE:	GOVERNANCE REVIEW
REPORT OF:	GOVERNANCE REVIEW WORKING GROUP

REPORT SUMMARY

The Annual Meeting of Council charged the Committee 'to conduct a review of the governance arrangements of the Council, with the objective to produce, in September 2019, an interim report on options and preferred outline for further consideration'.

The Committee established a Governance Review Working Group, which has met over the summer and, with the assistance of the Local Government Association (LGA), conducted interviews and hosted an all Member workshop. The findings of the Working Group, and its implications, are now presented by way of this report.

RECOMMENDATION/S

That the Committee is recommended:

(1) To recommend to full Council that:

- a) the Council moves from leader and cabinet executive arrangements to a committee system form of governance arrangements to take effect from Annual Council 2020.; and
- b) the Standards and Constitutional Oversight Committee accordingly prepare a draft revised Constitution to propose to the Council meeting of 16th March 2020.

(2) To task the Governance Review Working Group to:

- a) consider possible structures for a committee system of governance;
- b) undertake due consultation but giving preference to a streamlined style of arrangements; and
- c) oversee the drafting of revised standing orders, delegations and procedures by the Director of Governance and Assurance, with a view to producing an operational Constitution for the 2020/21 municipal year in draft form for consideration in February 2020.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

1.1 The Governance Review Working Group considered that the recommended move to a streamlined committee system form of governance best met their objectives for governance arrangements of:

- **Accountability** – responsibilities and accountability should be clear, within the Council and to residents;
- **Credibility** – governance should assist good decision making, which involved proper and early scrutiny;
- **Transparency** – the decision making process should be open and transparent to Members and to the public;
- **Collaboration** - decision making should be collaborative across parties and less combative;
- **Timeliness** – decision making should be both quick and effective and, when necessary, allow for urgent decision making.

1.2 The recommendation, if adopted, sets in train a number of pieces of work to be completed to allow for the change of form of governance within the desired timeframe.

2.0 OTHER OPTIONS CONSIDERED

2.1 Varying alternative governance arrangements were considered by the Working Group. This included a particular emphasis on a more inclusive and open version of a leader and cabinet form of executive arrangements, as well as ‘hybrid’ and other forms of governance arrangements.

- These other governance options were rejected as it was felt that they would not achieve the objectives to the same high degree or as conclusively as a streamlined committee system.

2.2 To delay the implementation date of the change of governance form to the Annual Meeting of 2021 was considered so as to allow for more time to draw up a satisfactory working structure.

- The Working Group were satisfied, however, that any advantages were more than outweighed by the view that such a delay would be counter-productive and that a workable revised Constitution could be produced in the given time period.

2.3 To make a recommendation to Council to move to a committee system form of governance, but as a statement of intent only in October and to

leave the final decision to the Council meeting of March 2020. This would be so that:

- the resulting draft constitutional structures and procedures could be presented and assessed by Council; and
- in addition to consultation on how proposals drawn up for the design of the committee system might best engage with the public and partners, consultation could also (or instead) take place on the direct question of whether to change of governance form from leader and cabinet executive to committee system,

before the final decision is made. This might be achieved by adding the phrase "*subject to a confirmatory vote at the Council meeting of 16th March 2020*" to the end of recommendation 1a. above.

- This is not currently included as views of the Working Group and Members were felt to be sufficiently informed and clear, so that the introduction of a two stage process would most likely prove unnecessary and potentially unhelpful.

3.0 BACKGROUND INFORMATION

3.1 The Annual meeting of Council on 14th May 2019 resolved to:

"charge the Standards and Constitutional Oversight Committee to conduct a review of the governance arrangements of the Council, with the objective to produce, in September 2019, an interim report on options and preferred outline for further consideration."

3.2 The resulting report to the Committee's meeting of June 2019 set out the headline considerations and advice concerning a change to the form of governance arrangements of the Council. This included a summary of the various arguments both for and against the forms of governance available to the Council.

3.3 Further to the Committee's decision to establish the Governance Review Working Group, the Group has met on several occasions. In addition to their meetings, the Working Group were assisted by a series of interviews conducted by Mr Andrew Campbell OB of the Local Government Association and by an all-Member workshop hosted by the Working Group and facilitated by Mr Campbell and officers.

3.4 The workshop was presented with the Group's initial findings in favouring two options, one a more open and inclusive version of the Council's current executive arrangements and the other a streamlined version of a committee system. The slides as presented are attached as **Appendix A** to this report.

3.5 The Governance Review Working Group has considered the outcome of the workshop, together with its own findings, and the Chair's report is attached as **Appendix B** to this report.

4.0 NEXT STEPS

- 4.1 Should the recommendation be accepted by the Committee and Council, there then follows a process of formal notification. The legislation provides that, as soon as practicable after the Council has passed a resolution to change the form of its governance arrangements, it must:-
- a. Secure that copies of the document setting out the provisions that are to have effect following the resolution are available at its principal office for inspection by members of the public.
 - b. Publish in one or more newspaper circulating in its area, a notice which:-
 - (i) states that the authority has resolved to make a change in its governance arrangements;
 - (ii) states the date which the change is to have effect;
 - (iii) describes the main features of the change;
 - (iv) states that copies of the document setting out the provisions of the arrangements which are to have effect following the resolution are available at the authority's principal office for inspection by members of the public; and
 - (v) specifies the address of the authority's principal office.
- 4.2 The legislation provides that the earliest date by which a change in governance form may be implemented is from the following Annual Meeting, in this case for the municipal year beginning in May 2020.
- 4.3 The passing of such a resolution to move to a committee system will require early consideration to be given to designing a new Committee structure and to then incorporate that structure into a revised Constitution to run from the implementation date. It is suggested that the Committee, via the Governance Review Working Group, might approach this task in the following sequential order:-
- (i) To determine the overall structure of a new Committee system and, in particular, how that may operate as an effective but inclusive 'streamlined' model, separating strategic and executive overview from operational decision making and policy development.
 - (ii) Subject to the decisions at (i) above, determine what functions should be reserved to full Council, how much responsibility should be concentrated in the 'executive' committee and should the operational committees' structure be based on existing officer directorates, functional areas or strategic priorities?
 - (iii) Address whether the Council wishes to retain a split in respect of regulatory functions?

- (iv) Address whether or not the Council wishes to retain dedicated separate committees for Human Resources, Planning (for development control), Regulatory and General Purposes, Audit & Risk Management (accounts) and Standards & Constitutional Oversight [Nb A separate Licensing Committee will need to be retained as this is established through separate legislation other than the 1972 Act.]
 - (v) Consider the size of Committees and impact on political balance.
 - (vi) Determine whether the Council will retain Overview & Scrutiny arrangements, be that a comprehensive function or just for external partners and call-in, or not
- 4.4 It is further suggested that the above issues be considered before moving onto other matters, which will include:-
- (i) Review of the Officer Scheme of Delegation
 - (ii) A review of the detailed content of the constitution, including Council Standing Orders, Procedure Rules, etc. This will include a range of detailed issues including precise roles and remits of Committees, do we wish to retain a reservation system to Council etc.
- 4.5 Should the Council decide to retain a comprehensive style of scrutiny, or in designing the overview and scrutiny function into the remit of committees, regard should be had to the overview and scrutiny review undertaken, also the subject of an instruction from the full Council meeting of May 2019. It should be noted that this is the subject to a separate report on the agenda of this Committee's meeting.

5.0 ENGAGEMENT / CONSULTATION

- 5.1 The current recommendation was subject to an all-Member workshop and discussion with and amongst the political groups. It is envisaged that a similar process would occur during the next phase of development.
- 5.2 Whilst there is no a legislative requirement to consult on the proposed changes, only that a notice of the change is to be published as described at paragraph 4.1 above, the Council's Constitution at Article 15.3(ii) states:

“Change from a Leader and Cabinet form of Executive to alternative arrangements

- The Council must take reasonable steps to consult with local electors and other interested parties in the area when drawing up proposals.”

Consideration must therefore be given as to what form and with whom consultation will take place on the committee system proposals as they are drawn up.

6.0 LEGAL IMPLICATIONS

- 6.1 The ability for the Council to change from one of the permissible forms of governance arrangements of a local authority to another is provided for by Chapter 4 of the Local Government Act 2000 (as amended by the Localism Act 2011). Section 9KC of the Act straightforwardly states that a “resolution of a local authority” (a simple majority) is required in order for the council to make such a change in governance arrangements.
- 6.2 It should be noted, however, that a local authority may not then pass another resolution that makes a change from one to another of the permissible forms of governance arrangements ‘before the end of the period of 5 years’ beginning with the date the first resolution is passed, unless that change is by way of referendum.
- 6.3 A resolution passed by the Authority to change from one of the permissible forms of governance arrangements to another will then be implemented only during-
- (a) the first annual meeting of the local authority to be held after the resolution to make the change in governance arrangements is passed, or
 - (b) a later annual meeting of the local authority specified in that resolution.

7.0 FINANCIAL IMPLICATIONS

- 7.1 There are direct costs associated with making the change from one system to another. The Centre for Public Scrutiny (CfPS) have reported that the Government has estimated that the costs of moving from one system to another can range from £70,000 to £250,000. The CfPS believes this estimate is rather high, as do the Council’s officers, and consider a more accurate figure to be somewhat lower.
- 7.2 These costs are associated more with the act of making the change, such as redrafting the constitution, making changes to rules of procedure and financial systems, project delivery and impact on forward work programmes as well as training and briefing costs for officers and Members.
- 7.3 Some of the cost activities will be required to be resourced externally. This will be to a greater or lesser extent dependent upon the alternative calls on the time and particular skills of the officer cadre and the resulting mix of external resources required to either provide direct services to the project or elsewhere to backfill opportunity cost or required functions for the Council. The pace of change will likewise have a bearing on the eventual costs. For example, a procurement exercise for legal support has begun in preparation, but this is hoped to be largely formed of proofing and indirect support.
- 7.4 Members’ Allowances will require a full review and a separate report is being prepared on this matter.

8.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 8.1 There are significant implications for the Council in changing its decision making structure to a new form of governance. There will be an initial orientation, briefing and training impact that will reduce as the change in governance arrangements becomes embedded.
- 8.2 Project planning resource will be called upon to assist in preparation and for delivery of the drafting process and changes.
- 8.3 Across the Council, the change to potentially different ways of working and briefing with Members will require greater and different input from officers. The extent of these resource implications in the longer term will vary dependent on the number, frequency and timing of meetings (for example, daytime meetings are less resource intensive and have a lesser staffing impact than evening meetings).
- 8.4 Democratic Services will directly be affected over the longer term and other authorities that have moved to a committee system have reported that an increase in staffing is required. Again, such matters as retention of a separate overview and scrutiny system or not and the number and frequency of meetings will have a direct bearing on this and so costs cannot be estimated at this time.

9.0 RELEVANT RISKS

- 9.1 A change in the form of arrangements will represent a key and integral element of the Council's overall organisational vision and also of how it interacts with other stakeholders. That process of change will raise a number of associated internal and external risks to be identified and managed as part of the development process and implementation.
- 9.2 A key risk to the objectives of the recommendation is that a change to the form of governance arrangements fails to bring with it the desired change in culture.

10.0 EQUALITY IMPLICATIONS

- 10.1 There are no identified equality impact implications directly associated with the proposals set out in this report.

11.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 11.1 None.

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APPENDICES

- Appendix A** Presentation slides to the Member workshop
Appendix B Governance Review Working Group Chair's report

BACKGROUND PAPERS / REFERENCE MATERIAL

- 1) Notes arising from meetings of the Governance Review Working Group
 - 2) Report of Mr A. Campbell OB, LGA Consultant, to the Governance Review Working Group
 - 3) Notes arising from the all Member workshop
- A paper produced jointly by the Local Government Association and by the Centre for Public Scrutiny, "*Rethinking governance - Practical steps for councils considering changes to their governance arrangements*" can be found at: www.cfps.org.uk/wp-content/uploads/Rethinking-Governance.pdf.

Slide 1

Appendix A

*Governance
Working Group*

ALL MEMBER WORKSHOP

4th September 2019

 **WIRRAL**

Slide 2

Annual meeting of Council on 14th May 2019

That the Standards and Constitutional Oversight
Committee is charged:

**“to conduct a review of the governance
arrangements of the Council, with the
objective to produce, in September 2019, an
interim report on options and preferred
outline for further consideration.”**

Wirral Council Governance 4th September 2019  **WIRRAL**

Slide 3

Forms of governance available

A. Executive arrangements: directly elected mayor and cabinet;
B. Executive arrangements: leader and cabinet;
C. Committee system; or
D. Prescribed arrangements (of which there are none)

- A resolution passed that will change the Council’s form of governance from one of these to another takes effect from Annual Council
- Once resolved, a vote to change again cannot be taken for **five years**
- Changing arrangements within the confines of each form of governance can be done at any time

Wirral Council Governance 4th September 2019  **WIRRAL**

Slide 4

QUESTIONS to be answered:

1. What outcomes do you want?
2. What's wrong with the system you have now that means that doesn't happen?
3. Is it the Council's culture or is it the form of governance that led to this?
4. What are the options?
5. What form of governance do you prefer
6. Depending on choice(s), what do you need to think of next?

Wirral Council Governance

4th September 2019



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Timetable

- To date:
 - Resolution from Annual Council
 - Standards & Constitutional Oversight Committee report & debate
 - Working Group established & Workshop held
 - LGA consultant, Andrew Campbell discussion with individuals
 - Workshop today
 - Working Group recommendations for:
 - 26th September Standards & CO Committee;
 - For 14th October Council meeting & vote
- With any changes to be adopted for May 2020 Council

Wirral Council Governance

4th September 2019



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The answers so far

The views of the Working Group to date

Wirral Council Governance

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1. What outcomes do you want?

- **Accountability** – responsibilities and accountability should be clear, within the Council and to residents;
- **Credibility** – governance should assist good decision making, which involved proper and early scrutiny;
- **Transparency** – the decision making process should be more open and transparent to Members and to the public;
- **Collaborative** - decision making should be more collaborative across parties and less combative;
- **Timely** – decision making should be both quick and effective and, when necessary, allow for urgent decision making.

Wirral Council Governance

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2. What's wrong with the system you have now that means that doesn't happen?

- The majority of Members feel excluded from decision making with no opportunity to influence decisions when or before they are made (lack of inclusion);
- Options are closed down in discussion between a narrow group of Members and options that might have been of interest to Members of the Council from other parties are ruled out before sufficient evaluation (lack of engagement); and
- Too many important decisions were delegated to individual Executive Members to make rather than Cabinet (lack of transparency).

Wirral Council Governance

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3. Is it culture or is it the form of governance?

- The Working Group recognised that efforts had been made since May to respond to the criticisms, including:
 - Informal meetings with Group Leaders;
 - Policy Advisory Group around a cabinet portfolio holder, particularly for the Local Plan;
 - Workshop briefings on key topics and projects;
 - Greater early engagement and shared horizon scanning; and
 - Chairs of Overview and Scrutiny held by opposition
- But feelings were expressed that:
 - more could be done;
 - things might revert to previous problems under a Cabinet without a change of governance form; and also
 - the underlying culture might not change for the better under either system without further work.

Wirral Council Governance

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4. What are the options?

- The Working Group ruled out:
 - a directly elected mayor for Wirral; and
 - prescribed arrangements.
- Looked at variations of executive arrangements and a committee system
 - of which there are many,
 - including 'hybrid' forms
- Looked at the the advantages and disadvantages of each and how these might be mitigated in each form.

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4(a) What are the options? – Leader & Cabinet executive arrangements

- The Leader says WHO can make an executive decision
 - Leader or other individual cabinet member
 - Cabinet or committee of cabinet
 - Area committee
 - An officer
- Council can say HOW that decision is to be made
 - The Executive arrangements (Leader & Cabinet); and
- Council can form overview and scrutiny arrangements in a way that best suits it

There is a wide range of governance arrangements within the executive form

Wirral Council Governance 4th September 2019 

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Leader & Cabinet executive arrangements *common arguments for and criticisms against*

+ efficient decision making and delivery and thus speed of reaction to changing circumstances or requirements in a business like way;	– power and knowledge concentrated in too few hands;
+ clear lines of responsibility and transparency;	– under-utilised and disempowered councillors beyond Leader and Cabinet;
+ clear leadership of the Council;	– lack of political proportionality or sufficient cross-party decision working;
+ clear separation between decision makers and those holding to account; and	– lack of transparency and decisions taken 'behind closed doors'.
+ easier partnership working.	

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4(b) What are the options? – Committee System

- The Council and committees says who and how it can make a decision, being:
 - Council;
 - Committee or sub- committee; or
 - an officer
- subject to rules about decision-making (proportionality, publication and evidence*) from law and standing orders
*e.g., Members' notices of motions for debate at Council resolve to 'believe' and 'feel' or 'recommend' as now
- Council can adopt an overview and scrutiny function or not

There is also a wide range of governance arrangements within the committee form

Wirral Council Governance 4th September 2019 **WIRRAL**

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Committee system *common arguments for and criticisms against*

<ul style="list-style-type: none"> + all Members have the opportunity to be directly involved in decision making; + decisions are made through politically balanced Committees; + the resulting greater cross-party debate leads to better decision making and consideration of all alternatives; + all decisions are made in a public meeting (unless exempt). 	<ul style="list-style-type: none"> – opaque decision-making with early application of the 'whip' interfering with accountability, considering all options and deliberations only after listening to all evidence and genuine debate; – no individual responsibility and accountability and the role of a Leader is less clear; – Committees lead to silo working and poor external engagement; – much higher costs in officer support and administration; and – slow decision making and the resulting requirement for officer decision making at a higher level.
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Wirral Council Governance 4th September 2019 **WIRRAL**

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Forms of governance: Options for governance arrangements within each form

Executive of governance

Strong 'mayoral' individual decisions

Aligned 'hybrid' cabinet

Streamlined 'hybrid' committee

Traditional committees and council ratification of decisions

Committee form of governance

Wirral Council Governance 4th September 2019 **WIRRAL**

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Example 'hybrid' governance arrangements compared

<u>STRATEGIC DECISION MAKING</u>	<u>DECISION DEVELOPMENT AND REVIEW</u>	<u>REGULATORY</u>
CABINET	OVERVIEW AND SCRUTINY COMMITTEES	REGULATORY
Cabinet portfolios align to officer directorates or clear cross-cutting outcomes Limited or no single member decisions Decisions made on recommendation wherever possible.	Overview and Scrutiny Committees to mirror officer directorates (or Cabinet portfolios) to: (i) influence and shape service delivery. (ii) make recommendations to cabinet (iii) scrutiny and review (including external partnerships, health, etc). Separate Scrutiny Committee for Call-ins	Employment Planning (decisions) Licensing* General Purposes Standards & Constitutional Audit
POLICY & RESOURCES COMMITTEE	OPERATIONAL COMMITTEES	<u>REGULATORY ?</u>
Committee member portfolios align to officer directorates or clear cross-cutting outcomes No single member decisions and reflects political balance Decisions made on recommendation wherever possible by the P&R 'executive' style committee	The 'operational committees' mirroring officer directorates (or clear cross-cutting outcomes) to: (i) influence and shape service delivery. (ii) make recommendations to P&R Committee but also make decisions in limited areas (iii) scrutiny and review functions (including external partnerships, health, etc).	Employment (P&R Sub-Committee) Planning Licensing* General Purposes Standards & Constitutional Audit

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5. What form of governance do you prefer?

- The Working Group has considered the various options, advantages/disadvantages and mitigations and **narrowed the options for further consideration to two**
- These are for discussion tonight
- It is hoped that the Standards and Constitutional Oversight Committee will opt for one preferred form of governance to put to Council on 14th October
 - leaving time for development and implementation at next May's annual meeting if a change is agreed

Wirral Council Governance 4th September 2019

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(A) More open Leader and Cabinet arrangements

Retaining Leader and Cabinet executive arrangements - but only with new constitutional rules to increase engagement and openness of decision making, including:

- exchanges cross-party and by ward members within meetings;
- improved policy framework by full Council;
- inclusion of policy development groups and/or formal advisory committees; and
- consider no individual Member decisions or, if so, make no such decisions made in private.

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Example of Open Executive Governance

Leader and Cabinet

“The Leader with the Cabinet Members comprises the Executive, meeting in public to make decisions...”

Policy Advisory Committees

“Each Committee is able to consider and make recommendations on the functions of the Council that are the responsibility of the Cabinet Member(s) for matters within the Committees remit. They also consider and either endorse or make recommendations on statutory Key and significant decisions to be taken by the Cabinet Members either collectively or individually.” [15-19]

Policy Development/Advisory Group

Cross-party Members, chaired by the Cabinet Member and meeting as a working group, to be briefed and to develop policy proposals to put to a Policy Advisory Committee or the Cabinet that are the responsibility of the Cabinet Member under their portfolio. [5-9]

Overview and Scrutiny

“The Scrutiny Committee(s) investigates issues affecting the Council and residents and makes recommendations to support the improvement of council services.” [10-16]

Select Committees

“The Scrutiny Committee investigates issues affecting the Council and residents and makes recommendations to support the improvement of council services.” [4-9]

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(B) Streamlined Committee system

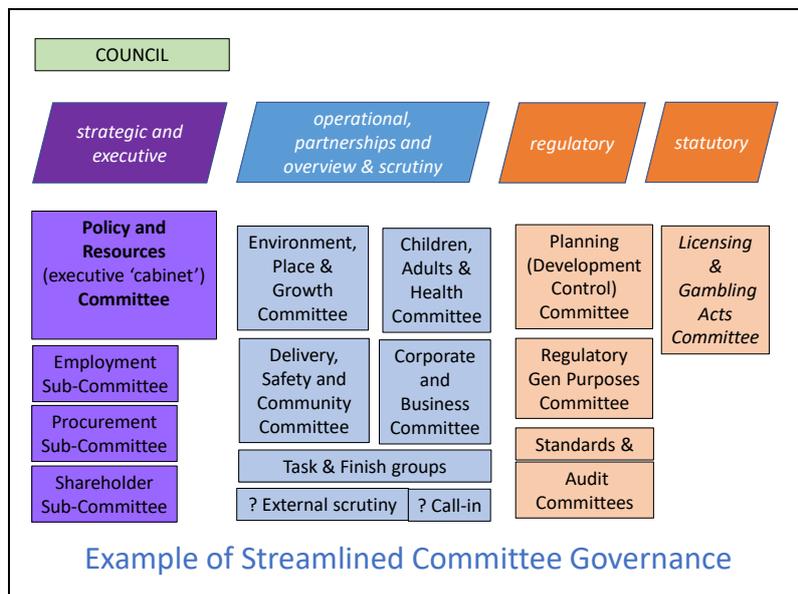
Moving to a Committee system - but only if streamlined arrangements, reflecting a modern executive style of committee, so as:

- to retain accountability and reactivity to business of the Council;
- include a formal Leader of the Council; and
- which may either include the overview and scrutiny function
 - Within the remit of all committees or
 - additionally retain specific committees for external bodies and for call-in

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6(a) If retaining executive arrangements, what do you need to think of next?

- How should individual executive decisions be made and administered
- Pre-decision requirements on reports, consultation access, etc?
- In public or private?
- Public access to time and place?
- How should cabinet meetings be run?
- Overview and scrutiny review: should the O&S structure be based on existing officer directorates, functional areas or strategic priorities to best provide pre-decision scrutiny?
- How should chairs, subject matter, task and finish be selected and resourced?
- How should call-in be administered?

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6(b) If moving to a committee system, what do you need to think of next?

- How do you wish to determine the overall structure of a new Committee system? How much delegation should be given from P&R/Cabinet committee to the operational and policy committees and should their structure be based on existing officer directorates, functional areas or strategic priorities?
- Do you wish to retain a split in respect of regulatory functions, eg planning development control separated from planning policy?
[Separate statutory Licensing Act Committee required]
- Do you wish to retain dedicated Committees for Employment, General Purposes, or Constitutional and Standards?
- The size of committees and impact on political balance?
- Do you wish to retain any Overview & Scrutiny arrangements: none, comprehensive or external & call-in?
- Can we get the changes ready for May?

Wirral Council Governance

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DISCUSSION

Cabinet or Committees? What kind of which?

4th September 2019



Wirral Governance Review Working Party 2019

Report to Standards and Constitutional Oversight Committee

1. In May of 2019, The Standards and Constitutional Oversight Committee were tasked with a review of Wirral Council's governance arrangements.
2. A working party was to convene at regular intervals to be led by the Chair, Cllr Cox, in collaboration with cross party spokes, and the Director of Governance and Assurance.
3. This was to conclude with a recommendation on changes that could be made to the current form of governance. It quickly became apparent that the current form is viewed by members as an unsatisfactory system.
4. The most powerful points, that came up again and again, were around the areas of transparency, accountability and credibility. Members on all sides of the Council believe that decision making is seen as far too opaque and distant to local residents, and this had to change.
5. There is a perception by Members that too many 'single member decisions' are taken by cabinet members, and indeed by the leader, behind 'closed doors'. This led to a general consensus that too many 'bad decisions' are being made - be they ill-conceived or rushed - and not enough meaningful scrutiny was undertaken.
6. Scrutiny is seen as a box ticking exercise rather than having any real teeth, or genuinely being able to hold the executive to account. All of this led to the impression of a lack of transparency.
7. Members embarked on a fact finding mission into what options were available to us. Special thanks is given to Phil McCourt and Vicki Shaw in their support of this process.
8. Various options were explored, and the merits and disadvantages discussed at length. It was decided that a directly elected mayoral system would place more control in the hands of one individual, to an even greater extent than the current 'strong leader model', and this would not be something the committee would pursue.
9. Numerous variations of cabinet systems and the committee-based systems were investigated. It was identified by members, at an early stage, that whilst both systems had their merits, we must keep a focus on what we were trying to achieve from a variation / change of governance form, namely achieving the afore mentioned transparency, accountability and credibility.

10. It was also a common theme that Members didn't feel that they were being used to their full potential. Whilst scrutiny was all well and good, it seemed impotent. Members would prefer to be genuinely involved in decision making, on behalf of their residents, not just scrutinising decisions.
11. There is a feeling amongst some Members that circa 55 members were effectively 'surplus to requirement' with the cabinet being the only councillors actually being utilised, and this is something that needed to be addressed.
12. Another important point that was raised was the politically competitive nature of Wirral Borough Council. Wirral is highly contested in many wards, and this can make the current form of governance too confrontational at times.
13. As the working groups progressed, its members scrutinised other systems of Governance elsewhere. An example of a 'hybrid' executive model from Kent County Council was examined. Whilst it was agreed that this was an improvement on our 'strong leader model', the committee consensus was that it did not go far enough in addressing the main issues with our governance model. Dilution of the sometimes 'combative political culture' and encouraging collaborative working was not inbuilt in the system, involvement of all members was not maximised, and transparency & accountability could still be improved.
14. Whilst it exhibited some good governance practice, it was essentially an executive with 'beefed up' scrutiny system. It was also commented that many of the attractive characteristics, innate to this system, could easily be implemented by the current administration, should they wish.
15. Some members expressed their interest in different examples of the committee system. One suggested that it is a natural choice for those who favour 'bottom up decision-making and collaborative working rather than top down combative politics.'
16. One thing that was unanimous was the need for any committee-based option to be streamlined. The system would need to provide for the ability for emergency decision making, whilst ensuring major decisions were debated fully in public at committees. Scrutiny would be 'in-built' into the committee format. It must also ensure that cross functional departmental working continued / was improved. This could be achieved by limiting the number of committees. Some members thought around 6 would be the optimal number to be able to cover all functional areas.
17. There was also agreement that there should be an overarching committee (sometimes referred to as 'Policy & Resources Committee') which would have oversight of operational committees and also provide further scrutiny.
18. Call in would also need to be considered.
19. The committee were keen to provide all 66 members with as much information as possible, and to hear their comments on our progress. To this end the Chair called for a 'all member workshop'.

20. Various opinions where heard.
21. One member raised the issue of the potential costs involved in any changes to the current governance system. One member believed the extra cost would be justified if it meant the council behaved in a more transparent and democratic manner. Another member commented that the Director of Governance and Assurance has stated on various occasions that our current constitution is not fit for purpose, and that costs / officer time to rewrite this will be incurred either way.
22. Comments were made around who the 'port of call' would be for outside bodies or who would be the 'lead member' if certain situations arose, as a cabinet member is currently. It was explained that it was envisaged that the chair of the committee for that business area would be analogous to that role.
23. Some members were explicit in their wish to see a committee system instated. It is reasonable to say that all members, even those not so bold as to suggest a change of governance form be enacted, believed further changes to increase transparency needed to happen and would be welcome.
24. Some members were dismissive of the idea of more delegated powers to officers, believing it should be the elected members who should bear the responsibility of major decision making, as it is they who can be removed from office by the public, not officers.
25. Comments were made that if we change the Governance form, we need to ensure we get it right.
26. Subsequently, a further meeting of the chair and spokes was convened. This final workshop led to this report being produced. All the evidence, including that accrued at the all member workshop, was again reviewed.
27. **Again, the pros and cons of the options presented were debated. With all this in mind, the consensus of the Working Party was to make a proposal to the Standards Committee, to be convened September 26th 2019, that a vote be held, at that said Committee, on a formal proposal to council that Wirral Borough Council formally move to a committee-based system. The structure of that system, and the implementation timetable, to be finalised at the first possible convenience, and to be led by the Director of Governance and Assurance.**
28. Focus is to be given to the operational cost of a new system of governance. Particularly, to ensure any overall member responsibility costs do not increase beyond the current expenditure.

**Cllr Tony Cox
Chair**

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STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

26th September 2019

REPORT TITLE:	MEMBERSHIP OF THE INDEPENDENT REMUNERATION PANEL
REPORT OF:	DIRECTOR OF GOVERNANCE AND ASSURANCE

REPORT SUMMARY

The ongoing review of the Council's governance arrangements may result in the introduction of a different set of roles and responsibilities for Members. In the light of that, this report asks the Committee to confirm postponement of the ongoing review of this Council's Scheme of Members' Allowances pending the agreement of any revised governance arrangements.

Discussion with Members has highlighted that the onset of any revised governance arrangements, of whichever form they might take, is an ideal juncture at which to refresh the membership of the Independent Remuneration Panel (IRP) and introduce fresh perspectives. Moreover, whilst the Council is extremely grateful to the current IRP for the work that it has carried out, its membership has remained largely unchanged for a considerable number of years. In order to maintain a robust IRP review process and to sustain a public perception of independence it is necessary that the membership of the IRP is refreshed from time to time.

RECOMMENDATION/S:

- (1) That, pending any revised governance arrangements coming into effect, the Committee:
 - (a) agrees to pause the current review of the Members' Allowances Scheme; and
 - (b) considers refreshing the membership of the Independent Remuneration Panel (IRP) in advance of requesting a new review of the Scheme of Members' Allowances in respect of any revised Council governance arrangements.
- (2) If the Committee so agrees, that the Head of Democratic and Member Services be authorised:
 - (a) to advertise for candidates from the general public and a wide range of organisations, including the local business community and voluntary organisations, for up to five members of the IRP to serve for a period of four years and conduct the next review of Members' Allowances; and
 - (b) to interview and recommend for selection (in consultation with political Group Leaders) up to five nominees for appointment to the IRP.

- (3) That the nominees for appointment to the IRP be subject to approval of the Council;
- (4) That the scope of the review of the Scheme of Members' Allowances be comprehensive, taking into account any revision of governance arrangements;
- (5) That an honorarium of £500 (no increase) be paid to the Chair of the Panel for a period of four years and the Committee determines whether to make payments to the other IRP Members ; and
- (6) That the Committee determines whether the IRP should elect its own Chair or whether, as now, the Council separately recruits for and appoints the Chair as having a separate and distinct skill set and knowledge requirement.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 If the Council wishes to make or amend a Scheme of Members' Allowances for Councillors it must appoint an Independent Remuneration Panel (IRP) to conduct such a review. The membership of the IRP was confirmed at the Annual Meeting 2019 and is beginning its review of Members' Allowances under the Council's current governance arrangements. As those governance arrangements are themselves under review, any new Members' Allowances Scheme is potentially immediately redundant.
- 1.2 The opportunity to recruit a new IRP, in advance of implementation of any new or revised governance arrangements, offers clear advantages in terms of fresh thinking and perspectives when formulating an associated new Scheme of Members' Allowances.
- 1.3 Guidance identifies the need to ensure that Councillors' allowances both encourages people to come forward as elected members and helps to retain such service to the community. Achieving a Panel that is independent, well qualified, and representative of the diversity of communities in the Borough is essential to this aim. The recruitment process is critical to a successful refresh: the proposed approach recognises this and combines advertising with inviting organisations to put forward candidates.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 The Committee may feel it would be appropriate to continue with the existing IRP to conduct the review of allowances this year. This approach complies with the Regulations and avoids the time and cost involved with a refresh. Obviously, the opportunities associated with a refresh would be lost if the Council selected this option.
- 2.2 The Committee may wish to explore the option of a partial refresh of the IRP membership. This would ensure that at least one member of the Panel has some experience of previous Wirral Borough Council reviews. This may alternatively be achieved by inviting the current IRP members to apply to be reappointed to a refreshed IRP if they so wish and by considering all applicants together.

3.0 BACKGROUND INFORMATION

- 3.1 In accordance with Regulations under the Local Government Act 2000, the Council established an Independent Remuneration Panel in 2001 to review Councillors' allowances. A Council cannot determine or amend allowances until it has considered and had regard to the recommendations of its IRP.
- 3.2 The IRP is currently beginning a regular review of the current Scheme of Members' Allowances.

- 3.3 The Annual meeting of the Council on 14th May 2019 resolved to undertake a review of the Council's governance agreements and also its number, terms of reference and make-up of the overview and scrutiny committees. This may result in the Council adopting a different form of governance and, therefore, a different array of Members' Special Responsibilities. A different form of governance would necessitate a different Scheme of Members' Allowances and thus a new review by the IRP.
- 3.4 The Council is extremely grateful to the current IRP for the work that it has carried out; however, aside from the Chair, the length of service of the Panel members is considerable. The current membership is:

Panel Member	First appointed
Ray Allan	2007
Nunzia Bertali	2002
Peter Bounds	2018
Pauline Brown	2002

- 3.5 The public perception of the independence of the IRP and the robustness of the review process is important. It is essential for the Council to ensure the Panel remains representative and in touch with the issues and challenges faced by those making decisions.
- 3.6 Now is considered to be an appropriate point for the Council to refresh the IRP. The potential adoption of new governance arrangements is deemed to be an appropriate juncture at which to recruit a new Panel and introduce fresh thinking and perspectives. Moreover this has been the topic of discussion amongst Members and the subject of a motion adopted by the Council's Labour Group.

4.0 Appointing a Panel

- 4.1 The Regulations do not prescribe how a local authority should appoint IRP members. The Guidance advises that the appointment process for the IRP should ensure the Panel is independent, qualified to discharge its functions, and representative of the diversity of the communities in the local authority's area. Candidates' knowledge of local government structures and functions is important, but a lack of familiarity with such matters should not be a bar to appointment.
- 4.2 The Regulations require that an IRP must have at least three members, but do not specify a maximum number. The Guidance advises avoiding unduly large Panels that would be unable to be an effective and publicly accountable source of clear recommendations. Therefore, it is suggested that the maximum size of the Panel remains unchanged and consists of up to five members. This would help address any potential quorum issues.
- 4.3 The Guidance asks local authorities to consider the term of office of members of the Panel, and suggests a period of 3-5 years. A period of four years is

recommended. (Looking ahead, the Council may wish to consider the value of term limits on IRP members to ensure the Panel is periodically refreshed. The ability to re-apply after a number of years might be included in such arrangements.)

- 4.4 In terms of recruitment, it is suggested that the Council advertise for IRP candidates in the local press and ask a wide range of organisations, including those in the third sector and the local business community, to propose candidates.
- 4.5 To help ensure that the IRP's work accords with the timetable for drafting and implementing any revised governance arrangements for the Council, it is suggested that the Head of Democratic and Member Services, in consultation with the Political Group Leaders, be authorised to shortlist and interview candidates. The Head of Democratic and Member Services, in consultation with the Political Group Leaders and the Director of Governance and Assurance, will recommend for selection up to five nominees for appointment.

5.0 FINANCIAL IMPLICATIONS

- 5.1 **Honorarium** – The Committee is requested to consider the level of honorarium payable to Panel members. Currently, the Chair receives an honorarium which has previously been set at £500 per annum. Recruitment of chairs of such IRPs can be difficult, given the depth of knowledge and skill set concerned, and an allowance is normal. Wirral acquired the recently appointed current Chair following a request to St Helens Council for the details of its IRP Chair.
- 5.2 This Council does not currently pay an honorarium to any of the other members of the IRP. The Committee is asked to consider this amount and whether an amount should be offered for each panel member in recognition of their time commitment for a four year period. This amount will be set out in the advert.
- 5.3 **Members Allowances Scheme** – It is for the IRP to recommend the amount of allowances. In the past, the Councillors have submitted evidence, which the IRP has taken note of and accepted in setting its recommended Members' Allowances.

6.0 Legal Implications

- 6.1 The Council must appoint an Independent Remuneration Panel to review its Scheme of Members' Allowances in accordance with the Regulations.
- 6.2 Whilst the Panel is required to make a recommendation, the Panel has always consulted all Political Group Leaders during each periodic review of Members' Allowances and then produced a written report for the Council to consider. It is the Council that decides whether or not to increase Members' allowances, not the Panel.

6.3 The Guidance referred to is that issued by the then ODPM in 2003, which this Council has followed, and states as follows:

‘5.1 A local authority should give very serious consideration not only to ensuring the independence of its independent remuneration panel but also the public perception of this independence. To maintain the credibility of its panel a local authority will need to consider the extent to which some, if not all, of its panel members are recognisable members of the local community. Political appointments, and appointments which are made through friendship or any other personal association of any members of the council should always be avoided.

5.2 Local authorities should consider very carefully the extent of any candidate's connections to a political party and whether these are such as to risk the effective discharge of the panel's functions were the candidate to be appointed.

5.3 In appointing its panel, a local authority should consider candidates' knowledge of local government and the way it works although lack of familiarity with the functions of councils should not be a bar to appointment.’

7.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

None.

8.0 RELEVANT RISKS

There is a slight risk that a new Panel may not be in place in time to recommend a new Scheme of Members' Allowances to the Council before the start of the new Municipal Year.

9.0 ENGAGEMENT/CONSULTATION

The Standards and Constitutional Oversight Committee is being consulted on whether to refresh the IRP and requested to determine the way forward in this respect. If it agrees to the proposals the Political Group Leaders will be consulted over the recruitment, interview process and selection of new IRP members.

10.0 EQUALITY IMPLICATIONS

None.

11.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

11.1 None.

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APPENDICES

None

BACKGROUND PAPERS

The Local Authorities (Members' Allowances) (England) Regulations 2003
The Wirral Labour Group's Motion that the IRP be reformed

SUBJECT HISTORY (last 3 years)

Council Meeting	Date

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