

Overview and Scrutiny Management Board Meeting

12th February 2018



Report of: Service Manager, Democratic Engagement

Title: Review of Scrutiny Ways of Working (trial period) and Proposals for the Way Forward

Ward: Citywide

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Please this report was commissioned by the OSMB political leads as an information report. Appendix D sets out the minutes of the OSMB Planning meeting on the 29th January which discussed this paper.

1. Recommendations

- a. That members consider the merits of the four respective models outlined in this paper, and provide a steer to officers on the way forward.
- b. That members consider whether they wish to identify preferred option(s) for further consideration at the workshop, or whether they wish all options to go forward.
- c. That members decide whether they wish to put forward any other models/options for further consideration

2. Summary

On February 22nd 2018 a workshop will be held for members to review the current ways of working, and to consider and develop options for the future scrutiny structure.

In preparation for the workshop this paper reviews the advantages and disadvantages of the new ways of working, and puts forward a number of options for the future operation of scrutiny, including a recommended way forward. The report highlights some of the difficulties that have been encountered and why these may have occurred.

The paper has been produced by the Scrutiny Team, and is based on the Team's experience of working with both the new ways of working and previous systems, and also on the views of members as expressed informally throughout the course of the last few months.

3. Policy

Bristol City Council is required to establish an Overview and Scrutiny function and discharge its duties in accordance with the following legislation - Local Government Act 2000, Health and Social Care Act 2001, NHS Act 2006, Police and Justice Act 2006, Flood and Water Management Act 2010, Localism Act 2011, Health and Social Care Act 2012.

4. Context

From September last year, a new scrutiny system has been trialled in response to feedback from members across groups that scrutiny was not delivering effective scrutiny, quality outcomes, nor making the best use of resources including councillor time. After a series of workshops to review the structure and ways of working, Member's concluded that the purpose and role of Scrutiny was *'To make a positive difference for the citizens of Bristol and deliver the right outcomes, by helping Bristol City Council make better decisions'* and they would achieve this by *i) holding the executive to account, ii) developing and amending policy, iii) influencing decision making, iv) representing the citizens of Bristol and v) driving out value for money.*

The member-led trial of the new system has moved away from the previous departmentally aligned scrutiny commissions towards more informal and flexible ways of working, with OSMB commissioning a number of task and finish groups according to agreed work programme priorities.

When the new ways of working were agreed by members, a commitment was given that a review would be carried out in February 2018 to gauge members' views, to assess progress, and to collectively determine a way forward.

There are a number of items which scrutiny either has a statutory duty to scrutinise, or that it is highly recommended to be retained within any future work programme. These are as follows:

4.1 Statutory requirements in relation to scrutiny:

- a. Health Scrutiny - Where an overview and scrutiny committee is exercising its functions in relation to the planning, provision or operation of local health services, a local NHS body must provide it with any such information as the scrutiny commission may require in accordance with the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 or any legislation that supersedes it. (previously the remit of the People Scrutiny Commission) - often referred to as the Health and Overview Scrutiny committee (HOSC) ***see note below**
- b. Joint Health Overview and Scrutiny Committee (JHOSC) – Health bodies have a duty to consult Health Scrutiny Commissions on proposals to substantially vary or develop the health service. If the proposal affects more than one Local Authority area a Joint Health Scrutiny Committee is legally required.
- c. Scrutiny of Crime and Disorder - This refers to the power to review and scrutinise decisions of the Council and other "responsible bodies" such as the police, in respect of crime and disorder functions, and to make reports and recommendations to such bodies, and for these bodies to

have regard to the scrutiny report or recommendations when carrying out their functions. (This function was previously the remit of the Neighbourhoods Scrutiny Commission.)

- d. Scrutiny of Flood Risk - Under the Flood and Water Management Act 2010, Bristol City Council, as Lead Local Flood Authority (LLFA), has a statutory duty to maintain the Local Flood Risk Management Strategy, (LFRMS). A risk management authority must comply with a request made by an overview and scrutiny committee for information and have regard to reports and recommendations of an overview and scrutiny committee. (previously the remit of Place Scrutiny Commission)
- e. Education - Scrutiny Commissions that cover Education are required to co-opt from governing bodies, which includes parent-governor and diocesan representation in respect of voluntary aided faith schools. (previously the remit of the People Scrutiny Commission)

***Please note** - In respect of Health Scrutiny it is worth stating that the JHOSC was constituted in May 2017 with the specific purpose of scrutinising the Bristol North Somerset and South Gloucestershire Sustainability Transformation Partnership (STP), and the three local authorities have committed to holding at least three meetings per year on a rotating basis. However, outside of the STP process (which looks at services that are being strategically planned and commissioned across the three local authority areas), individual Health Overview and Scrutiny Committees in North Somerset and South Gloucestershire both have the option to scrutinise more locally focussed health services provided within their respective areas, which Bristol does not easily have the option to do due to a lack of standing Health Committee.

After the last meeting of JHOSC in October 2017, the Bristol members submitted a statement to the Health and Wellbeing Board and the Overview and Scrutiny Management Board to recommend that they become the standing HOSC for Bristol health and social care services which would include responsibility for oversight of the Bristol Health and Wellbeing Board Programme and enable members to develop a specialism for more effective scrutiny.

4.2 Highly Recommended Areas for Scrutiny

It is highly recommended that regular scrutiny or a watching brief is maintained on a number of discretionary topics previously considered by Scrutiny Commissions, some of which involved key external partners and can be found in the table below:

Discretionary Topics	Possible Activity
Care and Support – Adults	- Scrutinise the Annual Safeguarding Adult's Report
Care and Support - Children and Families	- Scrutinise the Annual Safeguarding Children's Report
Education and Skills	- Scrutinise Annual Education Performance – All Key Stages - Scrutinise The Learning City Board work programme
Health Scrutiny	- Scrutinise The Health and Wellbeing Board Work Programme - Scrutinise Health Providers - Quality Account Reports

Corporate Strategy, Budget and the Medium Term Financial Plan	<ul style="list-style-type: none"> - Scrutinise and oversight of the Council's financial governance processes and budgets. - Monitor and scrutinise the implementation of Budget proposals
Corporate Risk Register	<ul style="list-style-type: none"> - Scrutinise and investigate underlying causes of serious risks and oversight of mitigation implementation
Performance	<ul style="list-style-type: none"> - Negotiate and agree KPIs with Mayor and Executive to monitor and scrutinise performance of MTFP, Corporate Strategy and Executive priorities
Scrutiny Reports/Recommendations	<ul style="list-style-type: none"> - Monitor progress/outcomes of Scrutiny activity e.g. School Admissions, Libraries
Companies	<ul style="list-style-type: none"> - Monitor and scrutinise shareholder group decisions, annual business plans, governance
Issues of public interest/ concern/ relevance/ impact	<ul style="list-style-type: none"> - Monitor and scrutinise Arena, Metrobus, Temple Meads, JSP, Clean Air Action Plan, Health and Social Care integration
Mayor's Forward Plan	<ul style="list-style-type: none"> - Monitor and scrutinise impending key decisions

4.3 Additional Key Considerations

- The issue of SRAs cannot be resolved until the structure is agreed and the Independent Remuneration Council has made its recommendations.
- The resources available to support the scrutiny function now consist of 2.6 FTE officers plus a degree of additional limited time from two managers. An overview and comparison of the resource Implications for both formal commission meetings and task and finish groups is provided as Appendix C.
- Senior officer structure is considerably changed and there is a generally reduced officer corps.
- There are no longer annual elections which has a positive impact on the ability to forward plan and continuity of work.
- We have moved from an Executive model with 4 Cabinet members, to 10 Cabinet members. This will need to be taken into account when thinking about lines of accountability and logistics of Cabinet members attending Scrutiny meetings.
- One of the Scrutiny hothouses held in 2017 drew up a list of considerations and risks for any future scrutiny model. This is attached at Appendix A.

Previous and current information and guidance:

- *Bundred Review* - The February 2017 review of financial management at Bristol City Council by Bundred made a number of references to scrutiny and members involvement in decision making. Members are advised to pay due regard to the good practice recommended in the Bundred report when considering the review of scrutiny.
- *The Parliamentary Communities and Local Government Select Committee* on "Effectiveness of Local Authority Overview and Scrutiny Committees" has made a number of

recommendations, and has called on both the government and local authorities to take action on a variety of issues.

- *Centre for Public Scrutiny* - The CfPS carried out a review of Bristol scrutiny in 2015 and made a number of recommendations. The full report can be found here [CfPS Review Feb 2015](#)

5. Review of the Current System

On February 22nd 2018, a workshop will be held to enable members to review the current ways of working and to consider options for the future scrutiny structure.

The experience of Scrutiny Advisors is that on the whole the current system has much potential, with more informal, agile working and the ability to be geared to reflect members' specific concerns, and which also offers members a better opportunity to delve into issues more intensively. Against this must be balanced the fact that scrutiny is operating in a less transparent manner with less public awareness of and engagement with its work. The balance between the task and finish groups and OSMB is also an issue of concern, both in terms of control, work programme and responsibilities.

However it must be recognised that this structure has not strictly operated in the way originally intended; for example, membership of the task and finish groups have become much larger, more cumbersome and therefore less able to respond or convene quickly when required. Continuity of membership has also been an issue. It was anticipated that the trial period would be an evolutionary process; however at times decisions have been made that have meant that the process has not always developed as was envisioned.

Members may wish to consider whether task and finish groups run under any future scrutiny system should be more structured and methodical.

The table below is a summary of the advantages and disadvantages of the current trial, pulled together by the Scrutiny Advisors from their observations, experiences and informal feedback received from Members. Members will be invited to conduct a similar exercise at the member workshop in February.

Advantages	Disadvantages
<ul style="list-style-type: none"> - Member led topic selection process - Significantly less administration (planning meetings for each formal meeting, requirements of Access to Information regulations, publishing papers to website, formal minutes) - More informal - constructive /more cooperative working - Better use of senior staff time - More flexible, agile working - In-depth scrutiny allows greater potential for 	<ul style="list-style-type: none"> - Currently no constitutional framework - Perception of less public awareness & involvement in scrutiny work <ul style="list-style-type: none"> ▪ Less transparency ▪ Lower external / public prominence ▪ Less internal prominence including officer awareness - Flexibility <ul style="list-style-type: none"> ▪ Membership of task and finish groups continually changing, issues regarding continuum of learning and consensus of

<p>more policy development</p> <ul style="list-style-type: none"> - Outcomes more deliverable as the group can timetable its own work - Deeper dives into issues - Best practice as recommended by CfPS i.e. doing less but doing it better - More sharing of and access to information and increased knowledge and expertise - More focussed agendas and ability to focus agendas on what the group wants to achieve - Potential for both development of members and officers in delivering new model - Building better relationships with officers and stakeholders 	<p>direction, extra sessions needed to bring new Members up-to-speed</p> <ul style="list-style-type: none"> ▪ Difficult to coordinate large groups of members diaries at short notice (T&F model requires agility) - Currently blurred lines regarding Executive Member involvement - Inconsistent communication between T&F members and a) their political groups, and b) OSMB - Disjointed relationship between OSMB and T&F work and lack of clarity around ownership - OSMB now the only remaining place to bring everything else <ul style="list-style-type: none"> ▪ has become too big ▪ too much control ▪ too concentrated / small number of members - Less holding to account - No formal overview work of the departments - Some priority topics are not at the right stage for scrutiny task and finish work
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6. Proposed Options

Considering the issues outlined above and the findings of the trial period, the following suggested options for the future operation of scrutiny are set out for the consideration of members.

Option A – Cross-cutting model (Recommended Model)

OSMB		
<ul style="list-style-type: none"> • 4 meetings per year • Has 1 x Budget/MTFP related T&F Group • Responsibility includes Corporate Risk Register and Performance • Responsibility for overall scrutiny work programme 		
Scrutiny Committee A	Scrutiny Committee B	Scrutiny Committee C
<ul style="list-style-type: none"> • 4 meetings per year • Commissions its own T&F group/s • Could be logical grouping of topics covered 	<ul style="list-style-type: none"> • 4 meetings per year • Commissions its own T&F group/s • Could be logical grouping of topics covered 	<ul style="list-style-type: none"> • Covers Health only (carries out the statutory health scrutiny function) • 4 meetings per year • Could include Joint Health Scrutiny

		committee
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Key features:

- 16 formal meetings
- Up to 7 T&Fs over the course of the year (including Budget/ MTFP) to be commissioned between OSMB/Committee A/Committee B (***See note after option D*)
- If it's decided that topics are NOT to be grouped then a 'cab rank' principle should apply – i.e. work gets allocated to first available committee (A or B) by OSMB
- Regular public scrutiny
- Formal public scrutiny shared between four committees, not solely with OSMB

Issues for further consideration:

- Groupings of topics between Committee A and B – how much the remit of each committee is defined would be a member decision
- Scrutiny support resources for Joint Health committee are not accounted for

Risks/Mitigations - Option A:

- *Risk: Potential lack of clarity/overlap between work of Committees A and B.* Mitigation: Each committee's remit to be broadly defined, allowing for flexibility to take issues arising. Chairs of Committees A and B to work closely together with Chair of OSMB.
- *Risk: Lack of cohesion of single scrutiny work programme and co-ordination role of OSMB diluted.* Mitigation: For this model to work effectively it would be essential for the Chair of OSMB to work closely with the other 3 chairs and reach consensus on the overall work programme.
- *Risk: Cross-cutting model more onerous and confusing for officers, members and the public:* Mitigation: Essential that the work programme is published regularly and made available to officers and members to help embed the new system.
- *Risk of overloading agendas:* could be a temptation for committees to try and cover all services within each committee's remit resulting in overloaded agendas and subsequent superficial scrutiny. Mitigation: Committees will need to exercise self-restraint and prioritise areas for focus

Option B – Thematic model (based on Corporate Strategy Strategic Themes)

OSMB
<ul style="list-style-type: none"> • 4 meetings per year • Has 1 x Budget/MTFP related T&F Group • Responsibility includes Corporate Risk Register and Performance • Responsibility for overall scrutiny work programme

Scrutiny Committee (Themes: Empowering & Caring, Fair & Inclusive)* <ul style="list-style-type: none"> • 4 meetings per year • Commissions its own T&F group/s • Grouping of topics covered according to theme 	Scrutiny Committee (Themes: Well Connected; Wellbeing)* <ul style="list-style-type: none"> • 4 meetings per year • Commissions its own T&F group/s • Logical grouping of topics covered according to theme 	Health Scrutiny Committee <ul style="list-style-type: none"> • Covers Health only (carries out the statutory health scrutiny function) • 4 meetings per year • Could include Joint Health Scrutiny Committee
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* Grouping of themes is for example only and is open to amendment

Key features:

- 16 formal meetings
- Up to 7 T&Fs over the course of the year (including Budget/ MTFP) to be commissioned between OSMB and the 2 Scrutiny Committees (***See note after option D*)
- Regular public scrutiny
- Formal public scrutiny shared between four committees, not solely with OSMB

Issues for further consideration:

- Scrutiny support resources for Joint Health Committee need to be accounted for

Risks/Mitigations - Option B

- *Risk: Potential lack of clarity/overlap between work of the two Scrutiny Committees*
Mitigation: Each committee's remit to be defined according to Corporate Strategic themes. Chairs of Committees A and B to work closely together especially where a theme cuts across a service area.
- *Risk: Lack of cohesion of single scrutiny work programme and co-ordination role of OSMB diluted:* Mitigation: For this model to work effectively it would be essential for the 4 chairs to work closely together and reach consensus on the overall work programme.
- *Thematic model more onerous and confusing for officers, members and the public:* Mitigation: Essential that the work programme is published regularly and made available to officers and members to help embed the new system.
- *Risk of overloading agendas:* could be a temptation for committees to try and cover all services within each committee's remit resulting in overloaded agendas and subsequent superficial scrutiny. Mitigation: Committees will need to exercise self-restraint and prioritise areas for focus

Option C – Departmental Alignment (based on the new draft staff structure)

OSMB

- 4 meetings per year
- Has 1 x Budget/MTFP related T&F Group
- Responsibility includes Corporate Risk Register and Performance

<ul style="list-style-type: none"> Responsibility for overall scrutiny work programme 			
Growth & Regeneration Scrutiny Committee <ul style="list-style-type: none"> 4 meetings per year Commissions its own T&F group/s 	Communities Scrutiny Committee <ul style="list-style-type: none"> 4 meetings per year Commissions its own T&F group/s 	Care & Safeguarding Scrutiny Committee <ul style="list-style-type: none"> 4 meetings per year Health Sub-committee meets 4 times per year Commissions its own T&F group/s 	Resources Committee <ul style="list-style-type: none"> 2 meetings per year

Key features:

- 22 formal meetings
- Up to 5 T&Fs over the course of the year (including Budget/MTFP) to be commissioned between OSMB, Growth & Regeneration Committee, Communities Committee and Care & Safeguarding Committee (***See note after option D*)
- Mechanisms included for Children and Safeguarding issues (via Care & Safeguarding Committee)
- Regular public scrutiny
- Formal public scrutiny shared between six committees, not solely with OSMB

Issues for further consideration:

- Joint Health committee resources issues remains unresolved

Risks/Mitigations - Option C:

- Risk: Balance of work between the four committees may be wrong.* Mitigation: If this model was adopted, the 5 chairs would need to monitor the balance of work. It is important to bear in mind that a new departmental structure will impact on Council departments as well as scrutiny, and scrutiny chairs will need to reassess progress against the scrutiny work programme to ensure that the balance of meetings matches the requirements of the workload.
- Risk: Overloaded agendas:* could be a temptation for committees to try and cover all services within each department resulting in overloaded agendas and subsequent superficial scrutiny. Mitigation: Committees will need to exercise self-restraint and prioritise areas for focus
- Risk: Silo working:* could result in focus of scrutiny being shifted from Executive and onto officers. Mitigation: Regular attendance and involvement from Cabinet Members.

Option D – The Status Quo / The Current System

OSMB
<ul style="list-style-type: none"> 15/16 meetings per year (12 plus extraordinary meetings) Responsibility for overall scrutiny work programme

Task & Finish Groups <ul style="list-style-type: none"> 8 currently running (additional to start throughout year as capacity arises ` 	Joint Health Overview and Scrutiny Committee <ul style="list-style-type: none"> Bristol is committed to host 1 of 3 three meetings per year on a rotating basis.
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Key features:

- 15/16 formal meetings
- Up to 12 T&Fs over the course of the year (including Budget/ MTFP) commissioned by OSMB (**See note after option D)
- Regular public scrutiny by OSMB

Issues for further consideration:

- Joint Health Committee/Stand-alone health committee issue remains unresolved.

Risks/Mitigations - Option D:

- see "Review of Current System "earlier in this report

*** Note: Smaller versions of Inquiry Days or workshops could be used instead of T&F groups, depending on the requirements of the work involved.*

7. Previous Scrutiny Structure

The previous scrutiny structure, which was aligned to the departmental structures, is outlined below as an aide memoir for members. It is not being included as a formal option as it is not deliverable under current resources.

OSMB			
<ul style="list-style-type: none"> Officially 4 meetings per year (plus extraordinary meetings) Overview of Corporate Risk Register and Performance (with Commissions taking responsibility for their area) Approves deep dive/one-off pieces of scrutiny on request from the Commissions 			
Neighbourhoods Scrutiny Commission <ul style="list-style-type: none"> 10 scrutiny "occurrences" per year 	People Scrutiny Commission <ul style="list-style-type: none"> 10 scrutiny "occurrences" per year Holds the statutory health scrutiny remit Includes Joint Health Scrutiny Committee 	Place Scrutiny Commission <ul style="list-style-type: none"> 10 scrutiny "occurrences" per year 	Resources Scrutiny Commission <ul style="list-style-type: none"> 10 scrutiny "occurrences" per year

Key features:

- Up to 44 formal meetings as specified in Constitution
- Regular public scrutiny
- Formal public scrutiny shared between five committees
- Commissions have flexibility to decide methods of scrutiny within the resource envelope
- Potential greater public awareness of scrutiny due to number of public meetings

Risks/Mitigations

- *Reduced resources for scrutiny support means that this model is not deliverable:* This model was delivered from a larger support structure and with administrative support from Democratic Services. The scrutiny resource is now smaller and the Democratic Services resource is not available.

8. Officer Recommendation

Option A is the officer recommendation as it allows a significant degree of flexibility for members to “bundle” topics as they see fit. It incorporates regular formal public scrutiny meetings, without reverting to the administrative burden of the previous system where the large number of public meetings was unsustainable. It also moves away from the departmental silos and may therefore be more comprehensible to members of the public, in the same way of operation as Development Control Committees A and B.

However this method does depend on close working and good communication between the four chairs, and it is also important that the workload stays within the support resource (although it is true to say that this is the case for all the models). It is also important that members’ expectations are managed within this system, and chairs will play a significant role in this.

As a reasonable alternative, Option C could be considered. It would in any case be no less viable than Option B, as the departmental structure gives it a more immediate definition.

9. Proposed Next Steps

The proposed next steps are as follows:

- 22 February - All Member Workshop to review scrutiny ways of working and recommend options to OSMB
- 8 March - OSMB to consider recommendations from Workshop. If the decision is taken to change the structure of Scrutiny then the amendments would ideally be taken forward as part of the review of the constitution that is likely to be considered at the annual Full Council meeting in May 2018.

It is therefore suggested that once the recommendations have been agreed, they would then be referred to the Constitution Working Group and onto Full Council.

At the series of workshops referred to in Section 4, a number of Key Considerations and Risks relevant to scrutiny were identified by members, most of which still require consideration and these are

included in Appendix A for information. It is strongly recommended that once the future scrutiny structure is determined, that these issues are looked at again by members.

Appendices:

Appendix A – Minutes of the OSMB Political Leads meeting on 29th January 2018.

Appendix B - Key Considerations and Risks (from 2017 Scrutiny Hothouse)

Appendix C - Scrutiny New Ways of Working FAQs

Appendix D - An Overview of Resource Implications for Scrutiny

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers: None.