

20 March 2024		ITEM: 10
Council		
Overview and Scrutiny Function		
Wards and communities affected: Not Applicable	Key Decision: Key Decision	
Report of: General Services Committee		
Accountable Assistant Director: Not Applicable		
Accountable Director: Daniel Fenwick, Executive Director of Corporate Services		
This report is public		
Version: Final		

Executive Summary

This report presents the progress and decisions required to action improvement activity around the Overview and Scrutiny (O & S) Function. The report asks Members to support the introduction of a new Overview and Scrutiny Committee Structure with a view to further developing culture, skills, work programming and constitutional procedures of the function in future months.

Commissioner Comment:

None.

1. Recommendation(s)

- 1.1 **Agree the restructuring of the Overview and Scrutiny Function to consist of three committees: People, Place and Corporate, as detailed in this report and appendices.**
- 1.2 **That the new Overview and Scrutiny committee structure starts for the municipal year 2024/25.**
- 1.3 **Subject to the addition of two substitutes per political group to be added to each committee, agree the terms of reference of these committees at appendix 1 and delegate authority to the Monitoring Officer to include them in the Constitution.**
- 1.4 **Cease the Local Development Plan Task Force and the Hidden and Extreme Harms Prevention Committee from the 2024/25 municipal year in accordance with Centre for Governance and Scrutiny's (CfGS) findings and recommendations.**

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- 1.5 Formally adopt the Overview and Scrutiny Protocol attached at appendix 2 and incorporate it into the constitution as part of the forthcoming revised Overview and Scrutiny Chapter.**
- 1.6 That the Lower Thames Crossing Task Force continues as a body until such time the Place Overview and Scrutiny Committee considers creating a Lower Thames Crossing Task and Finish Group.**
- 1.7 That the Place Overview and Scrutiny Committee be able to create two task and finish groups in addition to a Lower Thames Crossing Task and Finish Group.**

2. Introduction and Background

- 2.1 The Overview and Scrutiny function is a key element of the Council's improvement following Government intervention in 2022. The Council engaged with the national body, the Centre for Governance and Scrutiny (CfGS), to lead a review and progress change activity throughout 2023.
- 2.2 The CfGS is the leading national body for advising councils on O & S work and operations. The CfGS is engaged in collaborating with Thurrock Council's Members to reassess the shape, priorities and culture of the O & S function. This project has been split into two phases:

PHASE 1: Up to March 2024	<ul style="list-style-type: none"> • Review the current O & S function in collaboration with officers and Members. • Produce an options report signposting potential new committee structures and work programming aims. • Produce a new protocol for O & S at Thurrock • Conduct work programming sessions for chairs and vice chairs to re-prioritise future work programmes. • Consult Members on the proposals with a view to gaining an agreement on a new structure at March Council.
PHASE 2: March 2024 onwards	<ul style="list-style-type: none"> • Implement the new committee structure. • Develop Member skills and approach to ensure the new function is effective and efficient, • Undertake further work programming support

- 2.3 The CfGS has undertaken an extensive consultation with Members and officers to best identify the needs of the Council's Scrutiny function and to offer the appropriate recommendations. The key consultation activity has been:

July 2023

- 2.4 The CfGS attended on site in July 2023 to meet key Members holding two training sessions to support Members in i) O & S during intervention and ii)

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Chairing skills for O & S during intervention.

Summer 2023

- 2.5 CfGS held virtual catch up sessions with Members to discuss an O & S Protocol, as well as holding a number of 'Lunch and Learn' sessions for key officers to learn more about O & S and best practice from an officer perspective.

November 2023

- 2.6 The CfGS provided two budget scrutiny training sessions for Members in advance of the first round of budget scrutiny, followed by a further training session directed to chairs and vice chairs in January 2024.

January 2024

- 2.7 Three work programming sessions were organised to guide chairs, vice chairs, committee members and key officers through the potential new three committee model and to understand practices in compiling effective work programmes through prioritisation and aligning them with the Corporate Plan and improvement activity.
- 2.8 The sessions were constructive and a number of comments were received in relation to the proposed People Committee:
- Members and Officers thought the role of bringing the NHS to account was vital and needed to be considered. There was a suggestion that an additional Health Overview and Scrutiny Committee (HOSC) could be created to deal expressly with NHS matters.
 - The role of Healthwatch representatives and Looked After Children were valued within the current structure and Members and Officers felt there was merit in including them within the membership of the People Committee in an appropriate way.

New Committee Structure

- 2.9 Through the CfGS's consultation activity and independent assessment, a number of recommendations were formed, which are included in the CfGS report attached at appendix 3. The highlight recommendations of this report were:
- O & S needed to refocus its activity into a more efficient and responsive structure with a reduced number of core committees.
 - Work programming is similarly refocussed to closer align to the key priorities of the Council during intervention and that the work programming process be given suitable profile and support.
 - A new scrutiny protocol is developed and launched to codify roles and responsibilities within the Function.
 - That the Function is appropriately resourced.
 - That the Lower Thames Crossing Task Force, the Local Development Framework Task Force and the Prevention of Hidden and Extreme Harms Committee are not continued into 2024/25 in order that their remits can be appropriately resumed into the O & S Function, adding weight and relevance to the core O & S activities.

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- 2.10 Following the CfGS activities throughout 2023/24 the structure of the Function was developed to recommend three main committees, People, Place and Corporate. This base structure could then be supplemented by task and finish reviews which added value to the council's strategic aims.
- 2.11 The terms of reference for each of the proposed committees is attached at appendix 1.
- 2.12 The CfGS came to the view, following consultation, that certain committees and task forces currently set up were better served within the new O & S structure and by being brought back into the remit of O & S, gave weight and importance to the primacy of O & S as the review function of the council. Changes to the wider committee structure will therefore be reflected in the Annual Council report on committees in May 2024.

Overview and Scrutiny Protocol

- 2.13 The O & S Protocol was developed by the CfGS in close collaboration and consultation with Members. The new protocol expands on the 'Executive-Scrutiny protocol' which was developed by the Corporate O & S Committee in 2019. The new protocol sets out expectations and behaviours linked to good scrutiny and will act as a reference for Members and officers when conducting O & S business in the future. The protocol will be a reference document and, if desired by Members through consultation with the constitution working groups and General Services Committee, can be recommended to Full Council for inclusion in the constitution.

General Services Committee Consideration on 13 February 2024

- 2.14 General Services Committee considered this report at its meeting in February 2024 and made two key recommendations, which are contained within the recommendations to Full Council:
- That substitutes be permitted on the three O & S committees as it provided learning opportunities for new Members, as well as a failsafe should there be significant illness amongst Members. The Committee felt two substitutes was appropriate.
 - That the Lower Thames Crossing (LTC) Task Force should continue in some guise as it represented an important interface between Members and residents. The Committee agreed that the Place Committee should consider establishing an ongoing task and finish group for the LTC, which would not affect that committee's ability to convene a further two task and finish groups if it so wished.

O & S Constitution Procedure Rules

- 2.15 The development and drafting of the associated procedure rules in the constitution, to sit alongside this new structure, is a longer process which involves Members both informally but across an array of committees (General Services Committee) and working Groups (Officer and Member Constitution Working Group). Therefore, the delivery of a refreshed O & S chapter

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within the constitution will follow in the 2024/25 year and Members are simply asked to agree the structure in this report.

3. Issues, Options and Analysis of Options

- 3.1 The CfGS has brought external specialist resources into the council to ensure the reviews reflects national best practice whilst collaborating with Members and officers to ensure the recommendations and findings are owned by the Council.
- 3.2 Members and officers have had the opportunity, through the formal boards, working groups, committees and the consultation exercises to contribute to the design of the final recommendations found in this report.
- 3.3 The CfGS, with Members, has explored alternatives to the committee structure and what should be included or not in the new protocol.
- 3.4 the establishment of a restructured and refreshed O & S Function is only half the project and Members will be required to engage further in training, development and collaboration to ensure the refreshed function is effective and efficient for the resources available to the council.

Health Overview and Scrutiny (HOSC)

- 3.5 At the January 2024 workshops Members and officers considered whether there was a case to amend the three committee model to include a fourth committee (HOSC) to focus on NHS items. The Council, in accordance with the Health and Social Care Act 2001 and 2012, is required to have facility to scrutinise the Health Service. The CfGS considered this and has recommended that these functions can be appropriately accommodated within the proposed People Committee.
- 3.6 In December 2023, Thurrock was invited to begin discussions with Southend Council and Essex County Council to establish a joint HOSC to deal with regional NHS matters. An initial discussion has taken place but no further action taken.

4. Reasons for Recommendation

- 4.1 The recommendations reflect the work of an external national body in collaboration with Members and officers. The recommendations represent the changes required to deliver the Council's Improvement Recovery Plan to ensure stronger governance in decision making and the effective discharge of the O & S function.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 The consultation activities are covered in previous sections of this report. O & S Chairs and Vice-chairs have been consulted by the CfGS throughout their project with the wider Council Membership being kept updated and informed through the Member newsletter.

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6. Impact on corporate policies, priorities, performance and community impact

6.1 The recommendations directly address the Council's improvement journey and plan, putting in place developed systems of governance and decision making.

7. Implications

7.1 Financial

Implications verified by: **Rosie Hurst**
Interim Finance Manager (12/3/24)

The cost of engaging the CfGS in this work has been covered by the corporate funding provided through the Local Government Association (LGA) for improvement activities following the Government intervention. Members Allowances in relation to the proposed new committees remain unchanged and would be subject, upon Members request, to an independent review from the Remuneration Panel which is due to take place in March 2024.

7.2 Legal

Implications verified by: **Gina Clarke**
Governance Lawyer and Deputy Monitoring Officer (21/12/23)

The importance and legitimacy of the scrutiny function is afforded by the law to act as a check and balance on the Council's Executive. It is a statutory requirement as set out in sections 9F to 9FI of the Local Government Act 2000 as amended by the Localism Act 2011 for all authorities operating executive arrangements to establish overview and scrutiny committees.

Statutory Guidance has been issued by Government which Local authorities and combined authorities must have regard to it when exercising their overview and scrutiny functions. This means that not all 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. 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.

Overview and scrutiny legislation gives the Council the power to determine which overview and scrutiny arrangements best suit its needs, and so gives the Council a great degree of flexibility to decide which arrangements to adopt.

As to the proposed Overview and Scrutiny Protocol, Statutory Guidance states that 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:

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- 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.

Full Council to consider whether it would be beneficial for any further work to be carried to address the above matters which at the time of writing these implication are not included in the proposal protocol, in particular bullet points 2, 3 and 4. The Council will need to consider how to formally adopt the proposed protocol.

The proposed changes to the Council's existing scrutiny arrangements will enable the Council to discharge its scrutiny functions in a more effective and efficient way. The legal implications set out in this report will be reviewed and updated as required prior to this report being presented to Council to approve new scrutiny arrangements.

7.3 Diversity and Equality

Implications verified by: **Roxanne Scanlon**
Community Engagement and Project Monitoring Officer
(14/12/23)

The new O & S Function does not present any equality or diversity implications, although it is noted that the CfGS led process has been inclusive and considered all Members of the Council regardless for their political allegiance or position within the Council.

7.4 Risks

There are significant corporate risks relating to decision making and governance if the O & S Function is not revised in line with directions set out through the intervention. This report is represents the first step in refreshing the function in line with national best practice, the intervention and Member aspirations. The review and refresh of the culture, practice and procedures surrounding the Function will further reduce this risk in coming months.

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7.5 **Other implications** (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder, or Impact on Looked After Children

The improved efficiency, functionality and ability of the Function to add value to the decision making process will impact on all services of the council in a positive way.

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- None

9. **Appendices to the report**

- Appendix 1 – New O & S Committee Terms of Reference
- Appendix 2 – New O & S Protocol
- Appendix 3 – CfGS Report on O & S Function

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