

# **Report to the Overview and Scrutiny Committee**

**Date of meeting: 10 February 2015**



**Subject:** Overview & Scrutiny Panel Framework Review - Recommendations

**Chairman of the Task & Finish Panel:** Councillor K. Angold-Stephens

**Officer contact for further information:** S. Hill, S. Tautz, G. Nicholas (01992 564243)

**Democratic Services Officer:** A. Hendry (01992 564246)

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## **Recommendations/Decisions Required**

- (1) That a new overview and scrutiny framework, based on a structure of four 'select committees', be established with effect from the commencement of the 2015/16 municipal year;**
- (2) That the titles and general responsibilities of each select committee be as set out in the appendix to this report;**
- (3) That, at the present time, no increase be made in the number of members appointed to each select committee, and that this remain at eleven councillors in accordance with pro-rata provisions;**
- (4) That the Director of Governance report to the Council to seek the re-establishment of the existing Constitution and Member Services Scrutiny Panel as a new 'Constitution Working Group' from 2015/16, as a result of the implementation of the new scrutiny panel framework;**
- (5) That, to ensure continuity during its on-going review of the Council's constitution, the Council be recommended to reappoint the existing members of the Constitution and Member Services Scrutiny Panel to the Constitution Working Group (wherever possible) and that no variation be made in the number of members appointed to the Working Group;**
- (6) That the report of the Director of Governance recommend that the Constitution Working Group report directly to the Council in connection with its work programme, rather than the Overview and Scrutiny Committee;**
- (7) That, subject to the concurrence of the Remuneration Panel, a Special Responsibility Allowance be awarded to the Chairman of the Constitution Working Group, as a result of the disbanding of the Constitution and Member Services Scrutiny Panel;**
- (8) That no action be taken at the present time with regard to any possible combination of the Audit and Governance Committee and the Standards Committee but that, if necessary, a further Task and Finish Panel be established in future to consider such combination in light of new legislative audit requirements;**
- (9) That focused and achievable work programmes be developed for each select**

**committee each year, drawing on Portfolio Holder and service delivery aims and objectives, and relevant community priorities;**

- (10) That the current induction and on-going training arrangements for members in respect of the Council's overview and scrutiny function, be reviewed and enhanced as appropriate;**
- (11) That the select committees be encouraged to use a variety of appropriate techniques and methodologies as set out in this report, in the undertaking of future scrutiny and service review activity;**
- (12) That, subject to the agreement of the above recommendations, the Council formally be advised of the proposals of the Task and Finish Panel, in view of the likely wider member interest in the establishment of a new overview and scrutiny framework; and**
- (13) That the Committee consider the views of the Audit and Governance Committee in relation to the establishment of a new overview and scrutiny structure based on the four 'select committees'.**

## **Report**

This report will be presented by Councillor Mrs. M. Sartin, Vice-Chairman of the Task and Finish Panel, in the absence of the Chairman, Councillor K. Angold-Stephens.

## **Introduction**

1. The Task and Finish Panel was established by the Overview and Scrutiny Committee in July 2014 to undertake a review of the Council's existing overview and scrutiny panel framework, in light of the adoption of a new management structure in December 2013. For continuity and expediency and, the membership of the Panel mirrored that of the Task and Finish Panel established in 2013 to carry out a full review of the Council's operation of the overview and scrutiny function. Constitutional issues relating to overview and scrutiny and the operation of the Overview and Scrutiny Committee itself were excluded from the scope of our review, as these had been fully covered by the earlier Task and Finish Panel, and were not within our terms of reference.
2. The review of the Council's management structure completed in December 2013, resulted in a reduction from seven service directorates to four. A proposal for a new overview and scrutiny structure of four panels aligned to each of the directorates, which had not been considered as part of the earlier overview and scrutiny review, was considered by the Overview and Scrutiny Committee on 25 February 2014 in light of the restructuring of the service directorates. This proposal arose, in part, due to the existing arrangements appearing to have resulted in a situation where not all service areas were either subject to scrutiny (if required) or allocated to a particular panel for scrutiny purposes. At that time, the Committee deferred consideration of this proposal for the creation of a new four-panel structure aligned around the new service directorates, in favour of the review that we have now completed.
3. At present, about one third of members are not formally involved in overview and scrutiny through membership of the Overview and Scrutiny Committee or a scrutiny panel. From the viewpoint of our review, it seemed that different approaches to work programme development were taken by the existing panels and that a uniformity of approach in this respect might be more appropriate, in order that scrutiny activity results in positive change or improved outcomes. Additionally, it appeared that scrutiny activity wasn't always necessarily directed towards key issues of concern to local residents.
4. As part of our review, we also considered appropriate scrutiny arrangements for

elements of the functions of the Governance Directorate and how these could best interrelate with the terms of reference of the Audit and Governance Committee and the Standards Committee, as this was an area of concern expressed by the Overview and Scrutiny Committee when the directorate-aligned proposal was considered last year.

### **Approach to the review**

5. We considered a variety of evidence and submissions as part of our review. The changes to the directorate structure give the Panel an opportunity to consider the workload balance and the terms of reference of the existing scrutiny panels, to ensure that the structure helps to provide efficient scrutiny activity aligned with the directorate structure and relevant communication and process channels.
6. We undertook discussions with stakeholders to inform the evidence-gathering phase of our review, and similarly sought feedback on our proposals to ensure that our recommendations provide a fit for purpose scrutiny framework for the future. This process also sought to gain as much insight from relevant experts as possible and external expertise was utilised to feed in to the process of determining the best scrutiny structure for the Council. This impartial advice and use of case histories has allowed us to ensure that our recommendations cover all the issues identified in relation to our review
7. We consulted the Centre for Public Scrutiny (CfPS) regarding the review. CfPS advised that framework models should not be adopted based simply on them being successful on other local authorities, as panel structures need to represent the individual culture of an authority and should be determined by a Member led process in order to be successful. A guidance document; 'Rethinking Governance', was issued by CfPS as a supporting toolkit to help authorities implement changes in governance systems. CfPS also recommended that the Council approach other authorities that had implemented structural change, particularly Thurrock Council, who had recently reviewed their overview and scrutiny framework.
8. Officers met with a representative of Thurrock Council, who had engaged an independent Scrutiny and Policy Consultant to carry out workshops for their Members to ensure the process was Member informed and a reflection of the Council's ethos. It was reported that this had encouraged positive responses and helped to facilitate the structure change at Thurrock. We considered that this approach would also be worthwhile in terms of our own review.
9. Thurrock kindly allowed one of our officers to attend one of their facilitated workshops, in order to introduce us and to ascertain if the workshop would be a beneficial process for our review. It was decided that this was a valuable experience and that it would help to commission a workshop session with Members to ensure there was as much involvement and representation in the review as possible. The scrutiny workshop was held out on 22 November 2014, with all Members having been invited. In addition to covering panel structure issues, attendees to the session highlighted training needs for scrutiny duties, induction and ongoing training for panel members and the utilisation of appropriate methods of scrutiny. Further detail on the outcomes arising from the workshop is set out later in this report.
10. We invited existing scrutiny panel chairmen and vice-chairmen to attend a stakeholder discussion session at one of our meetings so that we could gain an insight into what they felt worked well and what did not in terms of the current panel structure. We also carried out stakeholder interviews with senior officers of the Council to gain an insight into what they felt currently worked well regarding the overview and scrutiny panel framework and what they felt needed to change.
11. Officers attended the Essex Scrutiny Officer Network meeting in November 2014 to gain an understanding of the different models of scrutiny in operation across the

county. We discovered that overview and scrutiny functions are managed differently across local authorities. Indeed, in Essex locally, there is very little commonality in approach to the management of scrutiny activity or the adoption of scrutiny structures or frameworks.

12. We consulted the Audit and Governance Committee to discuss our proposals and to receive feedback from the Committee in relation to a proposal developed during our review for the combination of the Audit and Governance Committee with the Standards Committee. This element of our proposal is discussed later in this report.

### **Overview and Scrutiny Workshop**

13. Fourteen Members attended the scrutiny workshop facilitated by Tim Young, who has worked with the council on overview and scrutiny matters in the past, with the purpose of attendees reviewing the current scrutiny arrangements and potential other arrangements. A welcome mix of chairmen and vice-chairmen of the scrutiny panels, members of the Task and Finish Panel, Members of the Overview and Scrutiny Committee and members of Cabinet were in attendance.
14. In open session, members discussed the current strengths of the Council's scrutiny delivery and agreed that the location of meetings and use of smaller rooms gives a less formal feel to proceedings. It was also agreed that there was good officer support for the existing panels, which operate in a non-partisan manner.
15. Members also discussed the aspirations of the Council regarding scrutiny, which included a general consensus that communication and training needs to be improved. The workshop considered that presentations from outside organisations needed to be focused to ensure that vital information is communicated appropriately, that the participation of the public in scrutiny should be enhanced and that chairmanship roles should be defined as strong leadership is key to the success of scrutiny.
16. Applying insights gained from this part of the workshop to different types of scrutiny framework, Members critiqued the following structure types
  - the current structure;
  - a directorate-aligned structure;
  - a 'commissioning model'; and
  - a 'select committee' structure.
17. Members were of the view that the current five-panel structure meant that panels have to be serviced by different officers for individual areas of scrutiny, due to the structure not matching that of the service directorates. Although not an issue that we were specifically requested to investigate, it was highlighted that there could be an element of cost saving through a reduction in the number of panels. Whilst this has not been quantified, efficiencies could clearly be achieved through having one less chairman position and consequently one less responsibility allowance payment. A smaller number of panels would also have a reduced requirement for officer support and attendance meetings, thereby also saving on committee allowance payments and agenda production costs.
18. A number of members considered that a move to a directorate-aligned (four panel) structure would possibly giving the Housing Scrutiny Panel too much of an ongoing workload. This issue has been raised on a number of occasions during our review process and, although officers consider this could be adequately addressed through the development of focused work programmes for each panel, we have reflected the concerns of members in our recommendations.
19. The commissioning model of scrutiny was considered to place too much load on the Chairman of the Overview and Scrutiny Committee and place responsibility more so

with the Overview and Scrutiny Committee (which could work against member involvement) attendees were also unconvinced that there would be enough Members volunteering to be on any of the panels.

20. This part of the workshop also introduced the concept of the possible combination of the Audit and Governance Committee and the Standards Committee. Case studies from other local authorities, who had already adopted this model, were presented to attendees. Attendees were presented with examples of the practice of combined Audit and Governance and Standards Committees, which has become an increasingly common model within local authorities. Members in attendance agreed with taking this option forward to the Task and Finish Panel for further consideration
21. The final exercise of the session involved attendees evaluating the four 'Select Committee' structure as the preferred framework. The select committee structure was seen by attendees as a good structure that was easy to understand.
22. The workshop also discussed the following different methods of scrutiny that could be utilised in individual circumstances, and agreed that these methods should be utilised to tailor scrutiny activity to specific requirements:
  - challenge session – single issue, one session;
  - single day scrutiny – a snap shot review;
  - focus group meeting – focus is on consultations with users/stakeholders as opposed to scrutinising officers/members/providers;
  - short-term single issue panel – typically two or three meetings to review a single issue;
  - longer-term panel work – typically over four to six months, with detailed scrutiny;
  - Overview and Scrutiny Committee meeting – an item with presentation and questions, discussion and with the option to make recommendations.
23. We consider that these techniques and methodologies should be utilised wherever possible in the undertaking of scrutiny activity.

### **Audit and Governance**

24. In terms of identifying options, we have fully considered the possible combination of the Audit and Governance Committee with the Standards Committee, as part of a new select committee framework
25. The Audit and Governance Committee was established in 2007, in response to guidance issued by CIPFA that emphasised the importance of audit committees as a key source of assurance regarding an authority's arrangements for managing risk, maintaining an effective control environment and reporting on financial and other performance. We understand that the establishment of the Committee is not a statutory requirement.
26. With the disbanding of the Audit Commission in March 2015, the onus will be on the council to appoint its own external auditors. The proposals of the Local Audit and Accountability Act 2014 are for 'Audit Panels' to become a legislative requirement, whose primary purpose would be to advise on the appointment of the external audit provider when the Audit Commission's current contracts with audit suppliers end. This would involve mostly independent members and we considered whether this could potentially still be satisfied with the creation of an Audit and Standards Select Committee. We were advised that more detailed work needed to be undertaken on how the proposed select committee would operate, than had been possible when we first considered this issue.
27. Our Vice-Chairman attended the Audit and Governance Committee meeting on 24 November 2014 to gather feedback on the proposed structure and combination of the

Audit and Governance Committee with the Standards Committee: The Chairman of the Audit and Governance Committee felt that the Task and Finish Panel may have misinterpreted the purpose of the Committee and its need to be independent. It was pointed out that the Chief Internal Auditor had a direct responsibility to the Chief Executive, and therefore it was analogous for the Audit and Governance Committee, as the body responsible for reviewing processes undertaken by Members and Officers, to report directly to the Council rather than a subsidiary body like the Overview and Scrutiny Committee.

28. The Chairman of the Committee highlighted that the Audit and Governance Committee had always reported directly to the Council, and that this should remain the case in the future. The Vice-Chairman of the Committee stated that the previous report from the Task and Finish Panel had analysed the existing scrutiny panel structure and had not identified any possible merger of the Audit and Governance Committee and Standards Committee. It was felt that the importance of the Audit and Governance Committee may not be fully understood and that, although Governance issues made up the majority of the Committee's workload, the reference to 'Governance' itself appeared to have been excluded from the new Select Committee's title.
29. The Vice-Chairman of the Committee also highlighted that an Audit and Governance Committee was concerned with processes, controls and how senior officers managed the organisation. A Standards Committee was concerned with Members and their personal conduct. Therefore, there was a conflict of interest between the two Committees, one of which dealt with corporate ethics and the other which dealt with individual ethics.
30. It was reiterated that the report lacked detail about the proposals for any new 'Audit and Standards' Select Committee, which made it very difficult to debate the proposals and offer any advice to the Task and Finish Panel. The Committee could not therefore support the proposals pertaining to the proposed Audit and Governance Select Committee within the report. Officers had indicated that more detailed work would need to be undertaken on how the proposed select committee would operate, than had been possible so far.
31. The Committee requested that, following other consultation on future structure proposals, the recommendations of the Task and Finish Panel be reported to the next meeting of the Audit and Governance Committee (5 February 2015), in advance of consideration. Although the Committee requested that consultation should include the views of both the Chief Internal Auditor and the Council's external auditors, these have not been sought as the option of a merged Audit and Governance Committee and Standards Committee was not agreed by the Task and Finish Panel on 25 November 2014 and feedback is instead being considered as a possible future recommendation
32. The Task and Finish Panel considered the views of the Committee at its meeting on 25 November 2015 and agreed that the possible combination of the Audit and Governance Committee and the Standards Committee should be omitted from its recommendations as to the future structure of the overview and scrutiny framework. The decision of the Panel in this respect had regard to the need to ensure the continued independence of audit and governance matters from the Council's executive and scrutiny functions. Members also fully accepted that more detailed work would need to be undertaken on how any Audit and Standards Select Committee would operate, than had so far been possible. The Panel requested however, that general member views on any future possible combination of the Audit and Governance Committee and the Standards Committee should be sought as part of the consultation undertaken in respect of its preferred overview and scrutiny framework option.
33. Although feedback arising from this consultation exercise indicated that the combination of the Audit and Governance Committee and the Standards Committee was not generally supported by members, the Panel noted that it might be necessary to

review the operation of the Audit and Governance Committee at some point in the future, to address the requirements of the Local Audit and Accountability Act 2014. Although no legal impediment has been identified to prevent the Council from combining the two committees if this was desired, the Panel was mindful of the Act, which changes the way in which the Council's external auditors are appointed, and considered that there might therefore be a need to review the terms of reference of the Audit and Governance Committee in the future.

34. The Audit and Governance Committee requested that we attend its meeting on 5 February 2015 to present our structure recommendations. Any further views of the Committee will therefore be reported to the meeting.
35. Although we were made aware of other local authorities where combining the Committees had been successful, we consider that the possible combination of the Audit and Governance Committee with the Standards Committee should not be considered for the proposed option, but has been included as an additional aspect for consultation to gather feedback for any potential review in the future.

## **Framework Options**

### **(a) Current Structure**

36. The Council has had the current five panel overview and scrutiny structure in place since 2005. During the course of our review, the following issues have been expressed on the current framework
  - although some panels work well, others do not have a focused work programme;
  - there are generally effective discussions and interviews at panel level;
  - some panels seem to have smaller work programme than others;
  - not much changes as a result of scrutiny activity;
  - there is lack of consistency of approach between panels;
  - the structure currently absorbs a lot of officer time;
  - there is a lack of public awareness and engagement with panels and meetings;
  - the structure is confusing issues where to take particular issues and the route to follow;
  - the structure doesn't cover the work of all directorates or service areas; and
  - the structure can result in duplication and blurring of responsibilities.
37. Although we consider that the existing structure allows new and current members to get engaged in scrutiny matters and to develop skills such as chairmanship, the panel framework seems to have led to a situation where not all of the Council's services are subject to regular scrutiny. In view of the reservations expressed on the current framework, we do not recommend that this option be continued going forward.

### **(b) Directorate-Aligned Structure**

38. The directorate-aligned four-panel overview and scrutiny structure was originally considered by the Committee on 25 February 2014, when it was decided that it should be researched and developed further by this Task and Finish Panel.
39. In undertaking the review of the scrutiny panel framework, the Panel initially demonstrated reservations and opposed ideas for the four panel structure aligned to the new directorate structure, particularly having received feedback from various existing panel chairmen and vice-chairmen. These concerns included:
  - issues with regard to a perceived increase in workload for each panel (the Communities Scrutiny Panel was highlighted in particular for its likely significant role e.g. housing and community safety);
  - a perceived lack of balance in the workload of each panel;

- a possible reduction in member involvement if the number of panels was reduced from five to four; and
  - the likelihood of reduced opportunities for member development in terms of chairmanship skills and experience if the number of panels was reduced.
40. Although we considered that some of these concerns could be addressed through the development of achievable work programmes for each panel, we were mindful of the existing heavy workload of the Housing Scrutiny Panel and the likely increase in the Panel's activities if it fully reflected the responsibilities of the Communities Directorate. In view of these reservations, we do not recommend this option.

**(c) Commissioning Model Structure**

41. A commissioning model of overview and scrutiny would essentially involve a task and finish approach only, with scrutiny activity focused on achieving improved outcomes for local residents. In reviewing possible framework options, we were hesitant about this approach, as we felt that there would potentially be no security of the existing scrutiny panels to remain in being, which could therefore limit the development of skills and expertise in particular fields.
42. We also considered that this model of scrutiny seemed not to reflect the operational requirements of the Council. A lot of existing panel work is cyclical in nature and would therefore mean that panels could continue to be established after completion of their commissioned activity, and essentially therefore have the same status as the existing 'standing' scrutiny panels. In view of these reservations, we do not recommend this option.

**(d) 'Select Committee' Structure**

43. We have also considered a further option for a scrutiny panel arrangement, based on the creation of four thematic 'Select Committees' that broadly reflect the management structure of the Council and cover the whole range of its business. The select committee model is based around the Westminster system of parliamentary democracy that can be more rigorous than traditional scrutiny methods of debate and questioning. We consider that the 'Select Committee' terminology itself also helps to imply a greater depth of scrutiny activity.
44. We consider that this option would have the following advantages:
- it would ensure that all services had a 'reporting' route for overview and scrutiny;
  - there would be a clear scope for the activities of each select committee; and
  - efficiencies could be generated by a reduction in the number of scrutiny panels..
45. This option would continue to provide for relevant scrutiny activity to also occur by way of the creation of task and finish panels (as necessary), and would ensure that all services have a 'reporting' route for overview and scrutiny and that there is clear scope to the scrutiny activities of each Panel. This option seeks to address the disadvantages highlighted with regard to the existing framework and is the Panel's preferred option for the future overview and scrutiny framework.
46. An illustration of the proposed select committee structure, including possible names and general responsibilities for each committee, is set out in Appendix 1 to this report. Although the proposed framework substantially mirrors the Council's management structure, we consider that the creation of a 'Communities Select Committee' might result in the disproportionately heavy workload that we have already referred to in the consideration of other options, and we therefore consider that the Community Services and Safety responsibilities of the Communities Directorate, should be subject to scrutiny through a 'Neighbourhoods and Community Services Select Committee' instead. This would leave a standalone 'Housing Select Committee' which would



generally accord with the wishes of members.

47. We do not consider that any increase should be made in the number of members appointed to each select committee, and feel that this remains at eleven councillors in accordance with pro-rata provisions.
48. The select committee framework that we are recommending improves current arrangements that appear to have resulted in a situation where not all service areas are subject to scrutiny (if required) or allocated to a particular panel for scrutiny purposes. The development of annual work programmes for each select committee, informed by relevant service aims and priorities, will be a key feature of the new framework. To further address the concerns previously expressed by the Audit and Governance Committee, the lead officer (when designated) for the Governance Select Committee will need to ensure clear demarcation between those matters that are to be considered by the Select Committee and those that are within the clearly defined responsibilities of the Audit and Governance Committee.
49. The framework provides for relevant scrutiny activity to be undertaken by way of the creation of task and finish panels (as necessary), would ensure that all services have a 'reporting' route for overview and scrutiny and that there is clear scope to the scrutiny activities of each Committee. The new framework arrangements will include enhanced member training, particularly in the use of techniques to improve scrutiny activities. This structure option was favoured by participants at the workshop session in November 2014, although we understand that the separation of the housing and community services responsibilities of the Communities Directorate between two select committees is not favoured by Management Board.
50. As previously indicated in this report, we have considered the establishment of an 'Audit and Standards Select Committee' as part of this approach, which could allow this body to act in a cross-cutting role and assume some of the responsibilities previously identified for the responsibility of the Governance Scrutiny Panel in the directorate-aligned framework option. Although we have decided not to recommend that this option be pursued, we consider that it might be appropriate for a further Task and Finish Panel to be established in future to consider such combination in light of new legislative requirements.
51. Under this option, we consider that the existing Constitution and Member Services Scrutiny Panel should be re-established as 'Constitution Working Group' (or similar) in order to complete its outstanding work. We feel that this new Working Group should report directly to the Council in connection with its work programme, rather than the Overview and Scrutiny Committee, and that a Special Responsibility Allowance should be awarded to the Chairman of the Working Group. We have asked the Director of Governance to pursue these matters, which are outside the responsibility of the Committee, by way of a report to the Council if our framework recommendations are agreed.

## **Consultation and Engagement**

52. In undertaking our review, we invited and held consultation discussions with several of the existing scrutiny panel chairmen and vice-chairmen regarding the operation of the existing panel framework and the range of options for a future structure. We also conducted interviews with senior officers of the Council regarding how well arrangements work within the current structure, including discussions with all service directors.
53. As mentioned earlier in this report, we have presented possible framework options to the Audit and Governance Committee. Items were also included in the Council Bulletin to consult with, and gain a perspective from, all members on our proposed select

committee structure. An email was also issued to consult with directors and assistant directors based on the proposed structure.

54. Feedback regarding the combination of the Audit and Governance Committee and the Standards Committee was also sought as part of this consultation process. Feedback on this subject is in addition to the proposed select committee structure and is not part of our recommendations, but rather a potential option for consideration in future if appropriate.

## **Conclusions**

55. The Overview and Scrutiny Committee is asked to consider the recommendations set out at the commencement of this report, and to specifically agree a structure proposal for the overview and scrutiny framework.
56. The adoption of the proposed new overview and scrutiny framework is not a matter reserved to the Council. However, the Task and Finish Panel recommends that, subject to the agreement of its recommendations, the Council formally be advised of the future overview and scrutiny structure in view of the likely wider member interest in the establishment of the new framework. We have requested that the Director of Governance also reflect this in the report to the Council referred to earlier.
57. This report concludes the work of the Task and Finish Panel, which does not therefore require re-appointment for 2015/16. We would like to acknowledge the contribution of all those involved in our review of the overview and scrutiny framework. In particular, we would wish to thank officers of Democratic Services for the support and assistance we have received in undertaking the review.

## **Members of the Task and Finish Panel**

Councillors K. Angold-Stephens (Chairman), Mrs. M. Sartin (Vice-Chairman), Mrs. R. Gadsby, Mrs. A. Grigg, D. Stallan, Mrs. J. H. Whitehouse