

## AGENDA ITEM

### REPORT TO EXECUTIVE SCRUTINY COMMITTEE

25 OCTOBER 2011

### REPORT OF DIRECTOR OF LAW AND DEMOCRACY

## FUTURE ROLE OF SCRUTINY

### BACKGROUND

1. At Stockton, scrutiny has provided an excellent platform for non executive Members to champion community issues and have direct involvement with policy review and development. The development of collaborative scrutiny arrangements has ensured that the scrutiny work programme has supported delivery of the Council's priorities. Scrutiny has proved to be particularly valuable when addressing sensitive issues or reviewing public facing services.
2. From the outset of the EIT programme, it was clear that full Member involvement and engagement in the programme would be a key success factor and scrutiny involvement has enabled Councillors to have a meaningful input into decisions on future service priorities.
3. This report provides an overview of the Council's scrutiny arrangements and discusses the future of scrutiny against the backdrop of national developments and public sector reform.

### *What is Scrutiny?*

4. Scrutiny has the following broad roles
  - Policy Development
  - Holding the Cabinet (and other bodies e.g. health service) to account
  - Investigating issues of local concern
  - Scrutiny of other organisations
5. Scrutiny provides a way for Councillors to review decisions, policies and performance that affect the Borough and enables Councillors to undertake in depth reviews on specific issues.
6. Scrutiny can also carry out reviews into services provided by other public organisations on issues causing public concern. It provides the opportunity for Councillors to champion issues of local concern to residents and be involved with the development of new policy.

### *Scrutiny – Statutory Framework and Powers*

7. Scrutiny is a statutory function introduced under the provisions of the **Local Government Act 2000**. The Act required Councils operating Executive arrangements to have a scrutiny function. The main legislative provisions of the Local Government Act 2000 in relation to scrutiny enable Committees and their Members to:

-Review and/or scrutinise

**Decisions** made by Cabinet and Council Officers in relation to key Decisions;

**Actions** carried out within the remit of the Council;

The **performance** of the Council in relation to targets and policy objectives; and

Have the right to **call in** and examine (in accordance with the agreed timescale), decisions made by Cabinet, before the decision is implemented

8. In addition, in Part 1 of the Local Government Act 2000, Councils are given the power to do “anything they consider likely to promote or improve the **economic, social or environmental wellbeing of the area**”.
9. Local Authorities also have the power to scrutinise **health issues** and services, as introduced in the Health & Social Care Act 2001. The Health Select Committee may review any matter relating to the planning, provision and operation of health services. In relation to major health service re-design, the Health Select Committee must be consulted on proposals and has the **power to refer** a proposal to the Secretary of State/ Monitor (the independent Regulator of NHS Foundation Trusts).
10. More recent legislation requires the designation of a Committee to scrutinise **crime and disorder** matters (at least annually). Housing and Community Safety Committee has been so designated at Stockton.
11. Legislation identifies key partner agencies that have a **duty to cooperate** with the scrutiny process.
12. Select Committees also have a role under the Council’s **petitions scheme** including acting as appeals bodies when petitioners are dissatisfied with the outcome of the Council’s response to their petition.
13. Councils must also appoint a **Designated Scrutiny Officer** to support the work of the Council’s overview and scrutiny committees which in Stockton’s case is the Head of Democratic Services.
14. Scrutiny has also been given a role in adjudicating on **Councillor Calls for Action**.

## **STOCKTON’S SCRUTINY ARRANGEMENTS**

15. In December 2005, Council approved new arrangements which sought to strengthen coordination of the scrutiny work programme. Key features of the new arrangements, which are still in place today, include:
  - Greater emphasis on **policy review and development** work
  - Establishment of **Executive Scrutiny Committee** to coordinate the work programme
  - Strengthened **project management** of in depth scrutiny reviews
  - Establishment of a **Scrutiny Liaison Forum** to facilitate dialogue between scrutiny and Cabinet Members. This enables CMT and Cabinet Members to comment on priorities for the scrutiny work programme
  - **Improved communication** mechanisms, including regular “tri partite” discussions between Scrutiny Members, Cabinet Members and Officers during the course of reviews

- Identification of “**link officers**” for reviews from within the service or organisation under scrutiny
16. Our formal structures and informal mechanisms have helped to foster a constructive working relationship between Cabinet and scrutiny and have led to a flexible work programme adapting quickly to changing priorities for the Council.

***What does external inspection tell us about the service?***

17. The Council’s scrutiny function has consistently received positive feedback from external inspection. The last corporate assessment in 2008 stated that Scrutiny provided **rigorous policy review** and had made a significant **contribution to service improvement**. It concluded that the scrutiny process was **robust** and resulted in improved outcomes but it would **benefit from additional opportunities for challenge**.
18. The function has also been praised in more recent inspections. In 2010, the Care Quality Commission Inspection stated that Overview and Scrutiny Committees are **effective** with Members giving detailed attention to key policy issues through the EIT process. The safeguarding inspection by OFSTED stated that good scrutiny arrangements are in place with good examples of the **engagement** of children and young people in reviewing processes leading to change and that scrutiny arrangements have had an **impact** on developing services and achieving cost effectiveness. The recent Audit Commission Value for Money inspection stated that Executive Scrutiny Committee was **challenging and effective**. The Centre for Public Scrutiny has also featured several of the Council’s scrutiny reviews in their publications (e.g. Review of Older People’s Strategy and Choice Based Lettings Review) and shown recent interest in the level of involvement of scrutiny in the EIT programme. Joint working with other Councils has also developed. In June the Council along with the other 11 North East Councils was the **overall winner in the Good Scrutiny Awards 2011** for the regional scrutiny of the Health Needs of the Ex Service Community. The Scrutiny Team supported the work of the Regional Joint Health Scrutiny Committee for the period in which Cllr Ann Cains was Chair during 2010/11.

***Recent Changes and Improvements***

19. In response to the CPA inspection which stated that the function would benefit from additional opportunities for challenge and reviewing best practice across the Region, annual **overview meetings** were established to provide Members with an overview of all the services reporting to the various Select Committees and to question Cabinet Members and Senior Officers on their performance.
20. In addition, arrangements to **monitor the implementation of agreed scrutiny recommendations** have been introduced and kept under review; progress is now reported to Select Committees on a quarterly basis and aligned to corporate reporting on service planning.
21. The Council’s scrutiny function has proved itself to be **flexible** and adaptable to changing priorities. From the outset of the EIT programme, it was clear that full Member involvement in the programme would be a key success factor with Elected Members bringing invaluable input through their roles as customers, policy makers and community representatives. Since 2009 the Select Committee work programme has played a key role in supporting the Council’s **EIT programme** enabling non executive Councillors to challenge services and have meaningful input into reviews. Close involvement of scrutiny with the EIT process at Stockton has helped it to remain transparent, accountable and open to Stockton residents and has enabled Councillors to have a meaningful input to reviews and take difficult decisions on service priorities. Year 1 and 2 EIT reviews

have helped the Council to identify potential savings of approximately £9 million.

## **SCRUTINY: FUTURE DIRECTION**

22. Whilst the **Localism Bill** proposes to give Councils the option to return to traditional committee structures, scrutiny continues to feature in emerging Government consultations. Even where Councils return to traditional structures, a role for scrutiny and accountability can arguably still exist.
23. Over the coming months it is vital that Members are regularly appraised of new developments. Members need to understand the implications of the various transitions that are taking place including **health and police reform** and have a role to play in scrutinising the transitional arrangements.
24. Our own scrutiny arrangements also need to be kept under review to ensure that clear lines of **accountability** are maintained with scrutiny providing the “checks and balances” to decisions makers.
25. Allied with a potential increase in commissioned or outsourced services, Members may need to develop more expertise in relation to **monitoring of contracts** to ensure that they are effective and delivering value for money.

### ***Health Reform***

26. The Health and Social Care Bill 2011 retains health scrutiny conferring health scrutiny powers on Councils as a whole; referrals to the Secretary of State in relation to substantial variations will also have to be signed off by full Council. This mirrors the Council’s own constitutional arrangements.
27. In addition, the Bill proposes the **extension of health scrutiny powers to cover all commissioners and providers**. The report from the NHS Future Forum highlighted the role of health scrutiny:

*“We believe that the function of local overview and scrutiny, led by elected representatives is essential as a mechanism of public accountability. The additional flexibility being introduced offers an opportunity for local areas to develop their scrutiny functions to best meet their particular circumstances and constitutions.”*
28. Our own scrutiny arrangements also need to complement and dovetail with the role of the local **HealthWatch** (replacing LINKs). Part of the scrutiny function should include whether local authorities are appropriately commissioning local Healthwatch.
29. The Institute of Public Policy Research has just published a report arguing that the public health shift from health to local authorities should increase accountability and that existing governance structures, particularly the work of overview and scrutiny committees, will enable local authorities to hold service deliverers to account. The report recommends that the Department of Health should require the development of robust local accountability structures for all relevant aspects of public health decision-making and delivery, clarifying what role local health scrutiny and Health and Wellbeing Boards should play in holding directors of public health to account.
30. In 2008, Adult Services was moved from Health Select Committee’s terms of reference to allow the Select Committee to concentrate on health issues at that time. However, it may now be timely to realign Select Committee remits with Cabinet portfolios by moving the “adults” element from Corporate, Adult Services

and Social Inclusion Select Committee back into the Health Select Committee to create an Adult Services and Health Select. As well as returning to a structure which fully aligns Select Committees with Cabinet portfolios this would allow the Adult Services and Health Select Committee to fulfil its overview role by covering the full remit of the Health and Wellbeing Board for example.

In the event that Adult Services and Health Committee would potentially be overloaded in terms of undertaking in-depth reviews, the facility exists for issues that are a corporate priority to be examined by other Committees

### ***Police Reform***

31. The Police Reform and Social Responsibility Bill 2010 includes proposals to abolish Police Authorities and replace them with a directly elected Police and Crime Commissioner (PCC) responsible for holding their Chief Constable to account and a Police and Crime Panel (PCP) for each force area, established by Local Authorities and responsible for scrutinising the functions of the Commissioner.
32. PCPs will consist of at least 11 Councillors plus at least two additional members (non-Councillors) co-opted by the Councillors. Elected Mayors will automatically take one of the places for their Authority (unless also elected as PCC). The role of the Panel will be to scrutinise the activities of the PCC, including receipt of an annual report from the PCC, the Police and Crime Plan and relevant reports from Her Majesty's Inspectorate of Constabulary all in the context of a statutory duty to exercise the Panel's functions.
33. CMT have previously received a report proposing that Stockton act as lead Authority for the Panel. The matter was discussed by the Tees Valley Chief Executives on 17 August who agreed that Stockton should act as lead authority for the Panel (and probably also the election of the PCC).
34. Officer support for the Police and Crime Panel in exercising their statutory scrutiny functions will need to be discussed by CMT. The work programme for Housing and Community Safety Select Committee will, for instance, need to take account of the work of the PCP in respect of their role in reviewing the draft Police and Crime Plan to ensure that there is no duplication and that the work of both bodies is complementary.

### ***Self Regulation and Inspection***

35. With the abolition of inspection regimes, an increasingly important role for scrutiny to play in **self regulation and service improvement** is also emerging.
36. This could involve a **more robust and challenging approach to performance management** with a greater role for Select Committees as well as Executive Scrutiny Committee.
37. Scrutiny management of performance can also focus on specific issues/priorities. For example, many Councils play a much greater role in scrutinising dignity issues within health and care services. **Dignity** is consistently cited as a high priority for service users and scrutiny committees are well placed to influence the agenda locally and drive forward better quality services. In order to undertake this role, Select Committees must receive the appropriate and timely information. This is of intense public interest and has been the subject of recent media spotlight (e.g. Mid Staffordshire Enquiry, care in Winterbourne hospital). The CfPS publication "Walk a Mile in my Shoes" provides examples of the scrutiny undertaken by other Councils regarding dignity issues: <http://www.cfps.org.uk/what-we-do/publications/cfps-health/?id=113>

Local sources of information should be exploited; these could include complaints information, internal and external inspection reports and local intelligence (e.g. LINKs).

38. On a similar theme, the recently established **Care Quality Commission** relies to a large extent on the information that is sent to them, including reports from scrutiny committees. This puts the onus of scrutiny committees to keep a **“watching brief” on care and health services** and highlight any shortcomings in the system and examples of positive practice and good service. Due to the focus on EIT work, provision of information to CQC has not been fully utilised to date but there will be an increasing expectation to feed into this process. Again, in order to do this, Select Committees must receive appropriate performance information to hold local providers to account.
39. Members need to continue to engage with these issues, and accept challenging reports in public arenas, whether or not they relate directly to council services.
40. More robust analysis of complaints data can reveal how well goals and standards are being achieved from the point of view of the needs and aspirations of citizens. The Local Government Ombudsman and Centre for Public Scrutiny have produced a joint guide “Aiming for the Best: Using Lessons from **Complaints** to Improve Public Services”. The guide suggests that complaints should be viewed as a strategic resource.
41. The guide argues that in a changing political and financial environment, there is a vital role for non executive councillors to influence decisions about planning and delivering services through a council’s overview and scrutiny function. Scrutiny provides a chance to take an overview of complaints handling, to assess the corporate culture towards complaints and assess the extent to which complaints currently provide learning across the whole organisation which drives improvement.
42. At a time when difficult decisions need to be made about future funding for public services and when public involvement is low, learning from service users through scrutiny can strengthen trust.

### ***Value for Money Programme***

43. **Delivery of the EIT programme** should also continue to be subject to scrutiny to ensure that recommendations are being properly implemented and are achieving savings targets. Regular reporting and discussion at Select Committees will also help Members to understand how and when changes are being introduced.
44. Involvement of Select Committees in the EIT reviews has been a key factor in the successful delivery of the programme and has also provided Members with new skills and an awareness of the efficiency agenda. Following the initial three year EIT programme, it will be important for the Council to continually review how it provides services and demonstrate that it is delivering value for money and is working to eliminate waste and improve the delivery of services to the public. It will therefore be important that scrutiny continues to be involved with the **Value for Money programme** and that Members should be seeking to identify efficiencies in any future work undertaken by Select Committees as a matter of course.

## RECOMMENDATIONS

45. Select Committees are currently working to complete Year 3 EIT reviews, with several reviews reporting to Cabinet in November/ December. **It is therefore proposed to hold a Scrutiny Liaison Forum in December 2011 to consider future work for the Select Committees.** It is recommended that future work should consist of a combination of the following elements:

- Appropriate support for the **Value for Money** Programme following completion of the EIT reviews. This could include new reviews of any outstanding service areas or follow up work emanating from earlier EIT reviews which were identified for further investigation. Experience from earlier EIT reviews has confirmed that Select Committees are able to add most value to the process where there is a public facing dimension to the work undertaken.
- A robust framework for **local and self regulation**. Select Committees are ideally placed to play a role in self regulation following the abolition of external inspection regimes. It is proposed that Select Committee receive half yearly performance information relating to the portfolio areas within the remit of the Committee. The framework would ensure that important issues of local concern such as dignity in health and social care were addressed, utilising enhanced scrutiny powers to scrutinise all commissioners and providers.
- **In depth topic based reviews** – it is proposed to invite topics from Members, CMT/ Heads of Service and key partners. As in previous years, topics will be invited on a pro forma and prioritised for consideration by Scrutiny Liaison Forum.
- **Health Scrutiny** – Potential in depth topic based reviews on health issues. Overview of local NHS transitional arrangements, continued updates on Momentum and other issues (e.g. statutory consultations, Quality Accounts etc.)
- **Realign Select Committee remits with Cabinet Portfolios** by moving the “Adult Services” element of CASSI Select Committee back into the terms of reference of Health Select Committee to allow the Adult Services and Health Select Committee to scrutinise the increasing linkages between health and social care, including the remit of the Health and Wellbeing Board.
- Continued development of the **Crime and Disorder Scrutiny** role with reference to the Police Reform and Social Responsibility Bill.

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Background Papers: None

Ward(s) and Ward Councillors: Not Ward Specific

Property Implications: None