

REPORT FOR DECISION

Agenda Item	
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DECISION OF:	COUNCIL
DATE:	28 MARCH 2012
SUBJECT:	REVIEW OF SCRUTINY STRUCTURE
REPORT FROM:	COUNCILLOR TARIQ – CHAIR OF OVERVIEW MANAGEMENT COMMITTEE
CONTACT OFFICER:	JAYNE HAMMOND - ASSISTANT DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	<p>This report sets out the findings and recommendations of the Overview Management Committee’s review into the current scrutiny structures in Bury.</p>
OPTIONS & RECOMMENDED OPTION	<ol style="list-style-type: none"> 1. That the proposed Overview and Scrutiny Structure set out in the report be approved. 2. That, subject to a new structure being introduced, an evaluation be undertaken after 12 months of operation. 3. That a 3 year Scrutiny Work Programme, co-ordinated with the priorities of the Council and Plan for Change, be developed and refreshed annually. 4. That, to assist in the development of a work programme, a planning event be held with all Scrutiny Members (with Executive Members and Executive Directors invited in an advisory capacity). 5. That the issue of potential duplication in the performance monitoring aspect of Scrutiny and the Audit Committee be examined. 6. That, subject to the proposed scrutiny model being adopted, attendance at Scrutiny Panel meetings be included within the overall Members attendance statistics.

1.0 BACKGROUND

1.1 Following a commitment from the new Leader of the Council, the Overview Management Committee was tasked to undertake a review of the current Overview and Scrutiny structures in Bury. A Project Plan for the Review is attached at Appendix 1. This report provides a summary of the review and sets out recommendations aimed at improving Overview and Scrutiny in Bury.

1.2 The information in this paper takes into account:

Comments and views expressed by current and previous Chairs of Overview and Scrutiny Committees in Bury.

Best practice from other Councils

Scrutiny models/Structures in place in other Local Authorities

The views of the Overview Management Committee Members

1.3 The final report of the Overview Management Committee has been shared with all Members as part of the consultation process. A summary of the comments and views expressed are included at Appendix 5 of the report.

2.0 LOCAL GOVERNMENT ACT 2000

2.1 The Local Government Act 2000 required all councils in England and Wales to introduce new political structures which provided a clear role for the council, the executive and non executive councillors.

2.2 One of the key roles for non executive councillors is to undertake an overview and scrutiny role for the council. This role involves reviewing policies of the council, helping to develop policies for the council, involvement with service reviews, scrutinising organisations external to the council and holding the executive to account

2.3 Overview and Scrutiny Committees are an important part of the way we make decisions. Although they have no Executive powers, the scrutiny process allows Members to explore issues in depth and help to influence decisions through recommendations to the Executive or to the Full Council.

3.0 OVERVIEW AND SCRUTINY IN BURY

3.1 In Bury, a new structure was adopted in May 2010 which resulted in the move to a model which looked to clearly define the role of the Council Committees in terms of a dedicated Overview role and a Scrutiny role. The role of scrutiny bodies can be broken down into these two main functions:-

Holding the Executive to Account

This involves scrutinising decisions before they are implemented by way of 'Call-in' to the relevant Scrutiny Committee for debate. The effect of a 'Call-in' is to suspend the decision until the Scrutiny Committee has had the opportunity to consider the implications of the decision and, where appropriate, to offer comments back to the Executive.

Policy Development

This involves undertaking reviews of policies and services within the Council leading to recommendations to the Executive, and to assist in the development of existing and future policies and strategies.

Under the new arrangements three committees were constituted to carry out Overview and Scrutiny in Bury. The Internal Scrutiny Committee reviews and scrutinises the decisions made or actions taken in connection with the discharge of any of the Council's functions; External Scrutiny Committee scrutinises partner organisations on issues relevant to the residents of the Borough; and an Overview Management Committee oversees the work of both Scrutiny Committees and appoints Overview Project Groups to carry out policy development work as required.

4.0 METHODOLOGY

4.1 Evaluation of Current Scrutiny Structure

- 4.2 As part of its evaluation of the current scrutiny structures in Bury, the Overview Management Committee considered the work done, and outcomes achieved, from the existing Scrutiny Committees and Overview Project Groups during 2010/11 through an analysis of the Overview and Scrutiny Annual Report.
- 4.3 In addition, interviews were carried out with current and past Scrutiny Chairs to examine the effectiveness of the current arrangements resulting in the identification of the following strengths and weaknesses:

<i>Strengths</i>	<i>Weaknesses</i>
Clearly defined committee remits	Lack of statutory power to influence some partners
Clear separation of Overview and Scrutiny Role	Only having 2 main Committee's means that not all backbench Councillors have the opportunity to serve
Good links with Executive decisions through the Forward Plan. Single Committee with responsibility for scrutinising decisions and holding the Executive to account.	Large Work Programmes (items often carried over; no strategic overview; limited delegation to sub committees)
Good oversight of work of Internal/external and Overview Project Groups through the Overview Management Committee	Annual Work programme set at first meeting, only 5 meetings remain to tackle often large work programmes
Time bound Overview Project Groups operating on task and finish basis have produced good outcomes in terms of policy development.	Committee Members consider issues from across all Departments/Partner organisations. As Committees are not themed this can be seen to reduce opportunity for members to develop specialised knowledge of particular areas.

4.4 **Alternative Structures**

4.5 Scrutiny came into being in May 2002, with little detailed guidance on how it should work. Not surprisingly there are many scrutiny structures and models in place at Councils across the country. As part of the review, the Committee have examined different scrutiny structures models and considered the key features of each. Research was carried out into the models in place within the AGMA Authorities, which is set out at Appendix 2.

4.6 Broadly speaking, the models of scrutiny can be categorised into 2 main areas, with the potential for hybrid structures to be developed as is the case with Bury’s current system. The two main models can be summarised as follows:

4.7 **Thematic Committees**

4.8 This model, comprising scrutiny committees defined by themed areas of policy, was in place in Bury prior to the re-organisation in May 2010. Each Committee would consider reports, as appropriate, relating to policy development and decisions within the specified service/policy areas.

Strengths	Weaknesses
Good opportunity for majority of non-executive members to be involved in scrutiny process	Committee style meetings can often result
Members build up expertise in particular areas of policy	Resource implications in supporting large number of Committees
Smaller contained remit	Often issues cut across various committee remits

4.9 **Overarching Committee**

This structure involves a single committee, responsible for Overview and Scrutiny across all Council departments and relevant partner organisations. Due to the large all encompassing remit, time limited scrutiny panels are set up to carry out in depth reviews and report findings back to the main Committee.

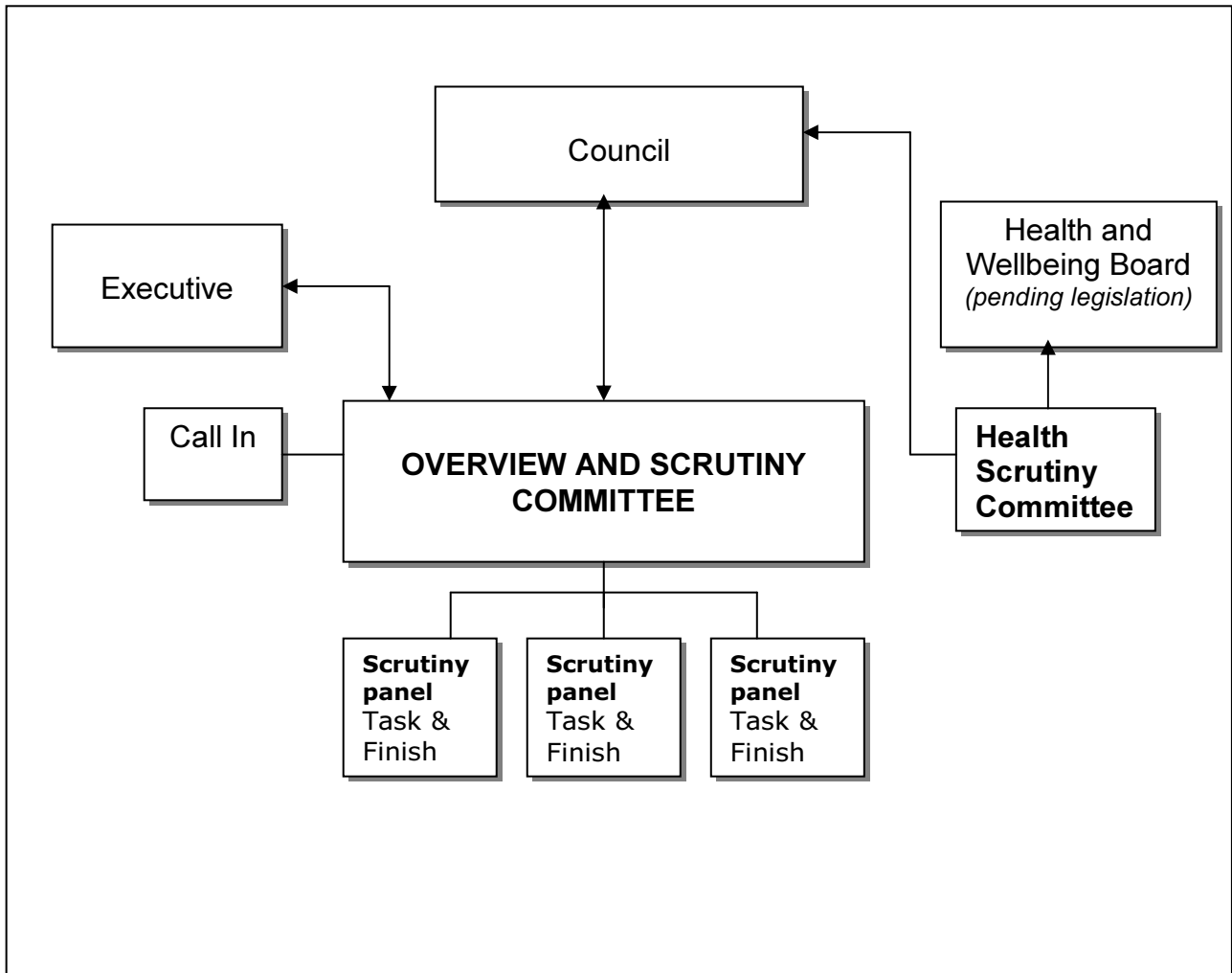
Strengths	Weaknesses
Committee can take a strategic view of all services/policies/decisions	No formal separation of overview and scrutiny function to allow for a dedicated policy development role
Flexible/responsive to emerging issues, through being able to set up Panels on an ad-hoc basis	Limited opportunity for many non executive councillors to be involved in scrutinising decisions.
More focussed work programme	

5.0 KEY FEATURES FOR EFFECTIVE OVERVIEW AND SCRUTINY

- 5.1 The Committee have, as part of the review, looked at good practice from within Bury and further afield. The Centre for Public Scrutiny highlights examples of where scrutiny is working and promotes the value that non-executives have in helping to shape the way public services are delivered. The Committee considered a document highlighting some of the most exceptional recent examples of good scrutiny – the shortlisted and winning entries in the 2010 Good Scrutiny Awards.
- 5.2 In looking to identify an alternative structure that will improve Overview and Scrutiny in Bury, the Committee resolved that the following key features were critical:
- Members who are engaged and committed to the process (recognising that the role extends beyond attending scheduled meetings)
 - Engagement between Executive Members and Scrutiny Committees (at an early stage in the decision making process)
 - Clear structures in place to manage statutory functions
 - Strong support required from Chief/Senior Officers
 - Reduce politicisation
 - Manageable Work Programmes

6.0 PROPOSED SCRUTINY MODEL

- 6.1 The following proposed model looks to address the weaknesses within the current arrangements and meet the key features identified as part of the Review.
- 6.2 It involves having one large Overview and Scrutiny Committee with 11 members. The Overview and Scrutiny Committee would then appoint Scrutiny Panels, on an as and when basis, to undertake reviews of policy, services or the impact of a decision. This is recognised as a more effective way of undertaking scrutiny, whilst still delivering a similar number of scrutiny reviews over the year. The size of the Panels is to be reflective, where possible, of the political balance calculations but also to include any other non-executive member of the Council. Chairs of the Panels would be drawn from the membership of the main Overview and Scrutiny Committee, which will allow for effective reporting of progress.
- 6.3 It is suggested that the proposed overarching Scrutiny Committee be simply named 'Overview and Scrutiny Committee' and that it takes on all the existing scrutiny functions including the statutory scrutiny functions, except the health scrutiny function. This would include the crime and disorder responsibilities and the four co-opted education representatives. The proposed terms of reference are at Appendix 3
- 6.4 A dedicated Health Scrutiny Committee is proposed comprising 11 members, which will scrutinise services provided and be consulted on proposals for significant change to local services. The Committee, Chaired by a non executive Councillor, will focus on the health changes and transition of public health and oversee the health and wellbeing of the Borough's population generally. This will link to other health scrutiny bodies in the region and sub region. The proposed terms of reference are at Appendix 4.



7.0 RATIONALE

In proposing the above model the following issues have been considered:

7.1 Statutory Functions

There are certain statutory functions that relate to Overview and Scrutiny, (Health, Crime and Education), which must be incorporated into any proposed scrutiny structure.

7.2 Health

- 7.2.1 The Health and Social Care Act 2001 gives powers to overview and scrutiny committees of local authorities with social service responsibilities to scrutinise local NHS organisations. Scrutiny committees which scrutinise health issues have the same broad responsibilities as other scrutiny committees, with additional powers. They hold decision makers to account and carry out reviews of topics within their remit.

Forthcoming legislation introduces changes to health scrutiny.

- Under the Health and Social Care Bill, local authorities will be able to discharge their health scrutiny powers in the way they deem to be most suitable, either by retaining a health scrutiny committee or by a 'suitable' alternative arrangement.
- The Health and Social Care Bill proposes to confer the health overview and scrutiny functions directly on the local authority itself (rather than on the health scrutiny committee).
- The Bill proposes extending local authority health scrutiny powers to all commissioners and providers of NHS services (including private sector providers). The powers will also include scrutiny of local public health services following the transfer of the public health function to local government.
- Scrutiny powers will also extend to the scrutiny of health and wellbeing boards as committees of local authorities.
- Powers will include the ability to require any NHS funded providers or commissioners to attend scrutiny meetings, or to provide information.

7.2.2 With regard to Health, legislative developments and the planned creation of Health and Wellbeing Boards would suggest that this area justifies a dedicated Committee.

7.3 Crime

7.3.1 Under the amended Police and Justice Act 2006, every local authority is required to have in place a committee with the power to review and scrutinise the responsible authorities which comprise a Crime and Disorder Reduction Partnership. It is felt that this role can be assimilated into the remit of the main Overview and Scrutiny Committee, whilst being mindful of further guidance being issued in relation to formation and role of Police and Crime Panels.

7.4 Education

7.4.1 Within any Scrutiny structure, provision must be made for Diocesan and the Parent Governor Representatives to participate in any scrutiny work of functions relating to education. These representatives must have full voting rights on such bodies in respect of education matters. Under the current arrangements these representatives are appointed as part of the Annual Appointments process to the Internal Scrutiny Committee and invited to attend meetings where education matters are on the agenda. The proposed new structure would in effect continue this arrangement, with representatives appointed to the Overview and Scrutiny Committee.

7.5 Scrutiny Panels (Task and Finish)

7.5.1 During the Review, it has been acknowledged that the outcomes from the in depth work of the Overview Project Groups have led to positive evidence based recommendations.

7.5.2 Building upon this there is a commitment within this structure for the establishment of time limited Scrutiny Panels. These Panels will carry out a specific task or project and will have defined terms of reference. The Panels will be set up and appointed by the Overview and Scrutiny Committee with membership being drawn from all non executive members. This will give all backbench members the opportunity to be involved in the scrutiny process.

- 7.5.3 It is anticipated that the Panels will work on an evidence gathering basis, going on site visits, looking at best practice, seeking out the views of the local community and service users, as well as obtaining information from relevant witnesses. Early within a review the Panel should identify details of any co-optees or contributors required to further the gathering of evidence and enhance the process or provide specific knowledge.
- 7.5.4 Once a review has been completed it would need to go back to the Overview and Scrutiny Committee to approve any recommendations before they are sent on to the Executive and/or any external body.
- 7.5.5 This arrangement builds on the current arrangement around Overview Project Groups which have undertaken a policy development role. The Scrutiny Panels are not restricted to policy development work and will, should they wish, be able to scrutinise and review decisions in depth. With a direct reporting mechanism back to the main Overview and Scrutiny Committee regular progress updates can be provided during the course of a review.

7.6 Role of Backbench Councillors

- 7.6.1 A key driver for the review has been to ensure backbench non-executive Councillors are engaged in the scrutiny process. The proposed structure looks to create 2 main committees, with the number of Members and frequency of meetings to be determined. The appointment of further Scrutiny Panels looking at specific areas will give the opportunity for all backbench councillors to be involved in the scrutiny process. These Panels will by their nature offer the chance for members to choose issues and policy areas they are particularly interested in.
- 7.6.2 In developing Members scrutiny role, it is recognised that strong engagement with the work of the Executive is critical. Recommendations are included in this report to help strengthen the link between the Executive and scrutiny.

8.0 IMPROVING OVERVIEW AND SCRUTINY

- 8.1 The Committee accepted that a change to the committee structure is not sufficient to address all the weaknesses of the current arrangements and that changes to procedures/practice, support mechanisms and member engagement, development and training could all assist in developing overview and scrutiny. The following issues have been specifically raised during the review:
- Consistent membership of Scrutiny Committees: where possible, Political Groups should be encouraged to maintain membership of Scrutiny Committees as part of the annual appointment process. This would allow for members to develop expertise and help with continuity for ongoing reviews/work programme items.
 - Consideration should be given to attendance at Scrutiny Panel meetings being counted within the overall Members attendance statistics.
 - With regard to the performance monitoring aspect of scrutiny, the issue of potential duplication between scrutiny and the Audit Committee should be examined.

- Development of a 3 year work programme, co-ordinated with the priorities of the Council and Plan for Change would help provide continuity and a strategic overview.

8.2 Recommendations relating to improving processes and support mechanisms are set out in the report.

9.0 CONCLUSION

The Overview Management Committee has carried out a detailed review into how scrutiny is undertaken in Bury. Members of Council are requested to consider the recommendations arising from the review and views expressed as part of the consultation process.

List of Background Papers:-

CFPS – Successful Scrutiny 2011

CFPS – Measuring what matters

Bury Council Scrutiny Annual report 2010/2011

Overview Management Committee Minutes (11.10.2011; 24.11.2011; 16.01.2012)

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Scrutiny Review Scoping Template

<u>Review Topic</u> (name of review)	Overview and Scrutiny Structure
<u>Councillor Involvement</u> (names of Cllr involved)	Councillors Tariq (Chair); A Cummings; G Campbell, V D'Albert, I Ahmed and M Wiseman
<u>Officer Support</u> (names of Officer required)	Jayne Hammond (Assistant Director of Legal and Democratic Services) Leigh Webb (Democratic Services Officer)
<u>Rationale</u> (key issues and/or reason for doing the Review)	Group to carry out the review following a commitment from the new Leader of the Council to undertake a review of the current Overview and Scrutiny structures in Bury
<u>Purpose of Review/Objective</u> (Specify actions)	The Group will review the effectiveness of the current arrangements recognising the importance of: <ul style="list-style-type: none"> • The role of scrutiny within overall governance arrangements • Transparency/openness • Access to information • Engagement with the Executive /Chief Officers • Public involvement in the scrutiny process • Detailed Member Briefings • The importance of scrutiny being non partisan
<u>Indicators of Success</u> (What factors would indicate that a Review has been successful)	Cross party consensus, resulting in evidence based recommendations to the Leader/Executive and potentially Full Council.

<p><u>Methodology/Approach</u> (what types of enquiry will be used to gather evidence and why)</p>	<ul style="list-style-type: none"> • Examine the current system/structure • Look at best practice across other Local authorities • Consult with Elected Members to gain views on scrutiny • Consider visiting other Local Authorities 		
<p><u>Specify Witnesses/Experts</u> (who to see and when)</p>	<p>Assistant Director of Legal and Democratic Services</p> <p>Chair of Internal/External Scrutiny Committees</p> <p>TBA</p>		
<p><u>Specify Evidence Sources For Documents</u> (which to look at – national and local)</p>	<p>CFPS – Successful Scrutiny 2011</p> <p>CFPS – Measuring what matters</p> <p>Scrutiny Annual report 2010/2011</p>		
<p><u>Specify Site Visits</u> (where and when)</p>	<p>TBA</p>		
<p><u>Meeting Dates:</u></p>	<p>11.10.2011</p> <p>24.11.2011</p> <p>16.01.2012</p>		
<p><u>Publicity Requirements</u></p>	<p>Key findings and recommendations will be made public through Council Website /press release</p>		
<p><u>Resource Requirements</u> (people, expenditure)</p>	<p>Officer time – preparation of reports/ attendance at meetings. Expenditure on visits</p> <p>With regard to any potential recommendations the Group recognise that any alternative arrangements would need to be met from existing resources.</p>		
<p><u>Barriers/dangers/risks/etc</u> (identify any weaknesses and potential pitfalls)</p>	<p>Failure to obtain political support for changes, if any</p>		
<p>Projected start date</p>	<p>11.10.2011</p>	<p>Projected completion date</p>	<p>Interim recommendations by 16.01.2012</p>

Appendix 2

Council	No of Committees	Structure	Notes
Bolton	4	<ul style="list-style-type: none"> • Corporate Issues Scrutiny Committee • Environment, Housing and Skills Scrutiny Committee • Adult and Community Services and Children's Services Scrutiny Committee • Health Overview and Scrutiny Committee 	Each Committee can also create 2 Scrutiny Panels which scrutinise issues in depth.
Bury	3	<p>1 Overview Management Committee</p> <p>2 Themed – Internal Scrutiny and External Scrutiny.</p>	Overview Management Committee can create Overview Project Groups to carry out reviews – Made up of all Councillors (non Executive Members).
Manchester	6	<p>Themed</p> <ul style="list-style-type: none"> • Children’s and Young People Overview and Scrutiny • Citizens and Inclusion Overview and Scrutiny • Communities and Neighbourhoods Overview and Scrutiny • Health and Wellbeing Overview and Scrutiny Committee • Resource and Governance Overview and Scrutiny 	Each Committee can create Sub Groups to carry out reviews
Oldham	2	<ul style="list-style-type: none"> • Overview & Scrutiny Board (scrutinising issues such as regeneration & employment, education matters, crime and disorder and health issues). • Performance & Value for Money Select Committee makes sure Council services are value for money. 	Each Committee can create Task and Finish Groups to review specific areas.
Rochdale	2	<ul style="list-style-type: none"> • Overview and Scrutiny Committee to oversee 	Overview and Scrutiny Committee

		<p>Council services.</p> <ul style="list-style-type: none"> • Health Scrutiny 	<p>can create separate Member Working Groups to carry out specific reviews – Made up of all Councillors (non Cabinet Members). Reports of these Groups have to be signed off by the Overview and Scrutiny Committee.</p>
Salford	6	<ul style="list-style-type: none"> • Budget Scrutiny • Children Young People and Families Scrutiny • Corporate Issues Scrutiny • Health Wellbeing and Social Care Scrutiny • Neighbourhoods Scrutiny • Sustainable Regeneration Scrutiny 	
Stockport	6	<p>One Scrutiny co-ordination committee and five themed committees.</p> <ul style="list-style-type: none"> • Adult and Communities Scrutiny Committee • Children and Young People Scrutiny Committee • Corporate Resource Management and Governance Scrutiny Committee • Environment and Economy Scrutiny Committee • Health Scrutiny Committee 	<p>Ad hoc Scrutiny Review Panels</p>
Tameside	4	<p>Four Scrutiny Panels:</p> <ul style="list-style-type: none"> • Services for Children and Young People Scrutiny Panel. • Resources and Sustainable Communities Scrutiny Panel • Personal and Health Services Scrutiny Panel • Technical, Economic and Environmental Services Scrutiny Panel 	
Trafford	5	<p>Overview and Scrutiny Core Committee.</p> <p>Four thematic committees:</p> <ul style="list-style-type: none"> • Health and Wellbeing Select Committee • Community Wellbeing 	<p>One Overarching Strategic Scrutiny Committee</p>

		<p>Select Committee</p> <ul style="list-style-type: none"> • Sustainability Select Committee • Education Overview and Scrutiny Sub Committee. 	
Wigan	5	<ul style="list-style-type: none"> • Adult Health and Wellbeing Scrutiny Committee • Building Stronger Communities Scrutiny Committee • Children Young People and Families Scrutiny Committee • Economy, Environment Culture and Housing Scrutiny Committee • Corporate Overview Scrutiny Committee 	<p>Corporate Overview and Scrutiny Committee allocate a review project to a separate scrutiny select committee; this is then reported back to the relevant scrutiny committee.</p>

Overview and Scrutiny Committee

Terms of reference

1. To review and scrutinise the decisions made or actions taken in connection with the discharge of any of the Council's functions.
2. To review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and all particular service areas.
3. To set up, appoint and monitor Scrutiny Panels (set up to carry out reviews of policies, services or the impact of decisions).
4. To make recommendations to the Executive and/or appropriate Committee and/or Council arising from the outcome of the Scrutiny process.
5. To review or scrutinise decisions made or other action taken in connection with the discharge by the responsible authorities of their crime and disorder functions.
6. Oversight of the provision, planning and management of the Council's resources including its budget, revenue borrowing assets and audit arrangements.
7. Oversight of the Council's corporate plans and strategies and the monitoring of the corporate plan and departmental plans.
8. To scrutinise outside bodies and partners relevant to the Council.
9. To receive all reports from external inspectors.

Health Scrutiny Committee

Terms of reference

1. To carry out the Council's statutory obligations in relation to reviewing and scrutinising any matters relating to the planning provision and operation of health services in the area of the Council.
2. To oversee the health and well being of the borough's population
3. To scrutinise the provision, planning and management of Adult care services.
4. To monitor the implementation of any scrutiny recommendations accepted by the Executive.

Consultation Responses:

Liberal Democrat Group:

We would very much support the need for a clear distinction in the roles between the Audit Committee and the Scrutiny Committee, and would agree that we need to clarify what the role of the Audit Committee is in the monitoring of performance indicators and financial matters, and that we need to avoid duplication.

We are uncertain about the proposal to include scrutiny of Adult Social Care within the Health Scrutiny Committee, as this is a function of the Council, rather than the NHS. It stands out as unusual given that the rest of the work of the Authority is scrutinised by the generic Scrutiny Panel.

We feel that we should specify that members of the H&WB should not be members of the Health Scrutiny? Should specific reference be made of how Health Scrutiny works with the JOsCs for Pennine Acute and Pennine Care (and the Greater Manchester Health Scrutiny).

We feel that it should be specified that the Chair of at the very least the generic Scrutiny Committee should be an opposition member, and preferably the Health Scrutiny also (particularly as the only Councillor on the H&WB is from the ruling group). If the Audit Committee has responsibility for scrutinising finances, perhaps it too should have an opposition chair?