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| Classification | Item No. |
| Open | |

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| Meeting: | Council |
| Meeting date: | 17 March 2021 |
| Title of report: | Overview and Scrutiny Review |
| Report by: | Leader of the Council and Cabinet Member for Finance and Growth |
| Decision Type: | Council |
| Ward(s) to which report relates | All |

1. Executive Summary

- 1.1. On 25 November 2020 as part of the introduction of the new Constitution, Council requested that the Democratic Arrangements Forum review the Overview and Scrutiny function in early 2021 to ensure better alignment with corporate priorities and partnership arrangements.
- 1.2. Council also agreed to include in the Constitution, the Safeguarding Scrutiny Sub-Committee. This is a sub-committee which has developed understanding and knowledge over recent years in reviewing arrangements for safeguarding children and young people. It had not formally been part of the Constitution with agreed Terms of Reference.
- 1.3. A workshop to review the Terms of Reference for the Safeguarding Scrutiny Sub-committee in considering the effectiveness of local safeguarding arrangements was held in January 2021 involving all members of the Sub-committee, Sheila Durr - Executive Director Children and Young People; Councillor Caserta - Chair of Overview and Scrutiny Committee; Cllr Stella Smith –Chair of Health Scrutiny Committee and Councillor Susan Southworth – Chair of the Safeguarding Scrutiny Sub-Committee.

- 1.4. The workshop confirmed the essential role of overview and scrutiny in the safeguarding process and the need for independent internal scrutiny and challenge. It was recognised that the current sub-committee was not working as effectively as before and that there was a real need to improve its performance. Safeguarding and promoting the welfare of children is defined in statutory guidance as:
- protecting children from maltreatment.
 - Preventing impairment of children’s health or development.
 - ensuring that children are growing up in circumstances consistent with the provision of safe and effective care.
 - Taking action to enable all children to have the best life chances.
- 1.5 It was agreed that the Safeguarding Scrutiny Sub-Committee needed a higher profile and easier access to the full range of statutory scrutiny powers to enable it to take evidence, undertake reviews, develop a work plan and report directly to Cabinet or Council from time to time. It was proposed that it be reconstituted as a Children and Young Persons Overview and Scrutiny committee.
- 1.5. During a follow up session with scrutiny chairs on the 22 February 2021 there was discussion about whether widening the remit of the existing safeguarding sub-group was a better option as a means of ensuring the scrutiny of children’s services was carried out within the existing scrutiny structure.
- 1.6. The Local Government Association have offered to work with members following the May Elections to review the Scrutiny function, develop initial work programmes and highlight good working practice. This support will include training of new councillors, continuing councillors, chairs and vice chairs; support officers working with scrutiny; as well as reviewing the progress of scrutiny during 2021/22.

Recommendations

Option 1

That Council:

- a) Notes the views of scrutiny members set out in the Report
- b) Approves the establishment of a new Children and Young Persons Overview and Scrutiny committee and revised terms of reference for the Overview and Scrutiny Committee and Health Scrutiny effective from 1 June 2021.
- c) Authorises the Monitoring Officer to make consequential changes to the Constitution.
- d) Notes the LGA will support a review of the scrutiny function after the May elections

Option 2

That Council:

- a) Notes the views of scrutiny members set out in the Report
- b) Approves the Safeguarding Sub-Group being renamed the Children and Young People's Sub Group with a widened remit to include the terms of reference set out at Appendix 1 (c) effective from 1 June 2021
- c) Notes the requirement for revised terms of reference for the Overview and Scrutiny Committee as a consequence of (b) above
- d) Authorises the Monitoring Officer to make consequential changes to the Constitution.
- e) Notes the LGA will support a review of the scrutiny function after the May elections

Reasons for Recommendations:

The review of the Constitution during 2021 and the LGA Review in 2018 identified a number of areas for improvement with the current structure and operation of the scrutiny function. To fully ensure that scrutiny is supporting the overall aims of the council, some changes, to the structure, remit and workload of scrutiny groups are proposed.

Council is requested to approve Option 1.

Background

- 2.1 The Council's legal duty to promote the welfare of children has been established in law since the Children Act 1989 and 2004. It is a significant part of the work and investment of the Council. Safeguarding systems are not static and have continued to evolve as developments in statutory guidance are published and embedded in local practice. These are supported with new lessons and learning from inquiries, report and local audits.
- 2.2 The challenge for scrutiny members is to make sense of local performance and champion the interests of children whilst navigating this increased complexity and quantity of information. The process of holding authorities to account can have a direct impact on the effectiveness of local safeguarding practices across a full range of local services.
- 2.4 These include:
 - Child protection services for those at risk of harm.
 - Domestic violence, substance misuse, mental health, learning disability and youth justice services.
 - Services for children in need including early help and intervention.
 - School and education services including approaches to tackle bullying, behaviour issues and discrimination.
 - Safer environment for children to live and play – including housing, road safety, safe neighbourhoods, parks and leisure services.
 - Services for looked-after children and those in the care system.

- Universal services including early years services and access to healthcare.
- Public health services.
- Information and communication services for children and families on topics such as health, safety and risk.

- Safe recruitment of adults working with children.
- Promoting children's rights and welfare across all aspects of their lives

Considerations

- 3.1 This Report refers to children's safeguarding, but members will be aware of the links to the legislation and practice of adult safeguarding – particularly in terms of transitions for disabled young people and vulnerable parents. A coordinated approach is essential as in turn adult safeguarding activities are likely to have an impact on any children in the wider family.
- 3.2 Children and young people are a highly diverse group in terms of age, gender, disability, health, ethnicity and other factors. Following the conventions of statutory guidance and in the interests of brevity this Report will use the term children to refer to anyone who has not reached their 18th birthday. Councils also have additional responsibilities for looked-after children in their care up to 21 years (and in some cases up to 24 years). It is proposed that the remit of any new arrangement cover issues affecting residents of the borough from birth to age 25
- 3.3 It is acknowledged that the Safeguarding Sub-Committee has in the past provided a high level of challenge in relation to children's safeguarding issues, but in recent times it had become apparent that it is constrained by its current terms of reference, preventing it looking at the wider causal issues affecting the wellbeing of children and young people.
- 3.4 Members of the Sub-Committee consider that the overview and scrutiny of Children's Services would be better served by a stand-alone committee; "Children and Young People Overview and Scrutiny Committee" with a remit and terms of reference covering the policies, performance and services of the Children's Services Directorate.
- 3.5 As an alternative, members could resolve to continue the existing arrangement of a safeguarding sub-committee but renamed Children and Young Persons Scrutiny Sub-Committee. A Table setting out the costs and benefits of these approaches is set out below.

| Current Model – status quo | Sub Committee (Rename and extend remit of Children’s Safeguarding Sub Group) | Stand Alone (additional Children’s Scrutiny Committee) |
|--|--|---|
| Wide ranging remit covers all council related functions (with the exception of health and adult services) | Would enable defined focus on Children’s Services. | Would enable defined focus on Children’s Services. |
| Statutory Education Co-optees appointed and invited to meetings where education matters are on the agenda | Statutory Education Co-optees appointed and invited to meetings where education matters are on the agenda | Statutory Education Co-optees appointed and invited to meetings where education matters are on the agenda |
| Only 2 SRA’s payable | Extra SRA payable | SRA payable to the Chair |
| Can appoint Sub Groups/task and Finish Groups to manage work programme | Would need to report back to the O&S committee as the parent body in terms of setting and managing its work programme. Any recommendations would need to go through O&S committee initially. | Would be responsible for setting and management of own work programme, ability to appoint sub groups/task and finish groups for defined investigative pieces of work. Any recommendations would be made direct to the Cabinet/Cabinet Member. |
| Remit is very large with risk of critical areas of policy/services not being afforded the time for effective scrutiny/policy development | Membership drawn from the Overview and Scrutiny Committee (to include statutory co-opted representation) | Themed stand-alone committee would attract members with background/experience in children’s services/education |
| | | Increased gravitas within the scrutiny structure - would be a means of evidencing Member involvement and engagement that reflects priority given to children and families in Bury. |
| | | Would be a move towards a more simplified thematic approach where committees more readily reflect Departments/porfolios. |

3.6 The establishment of a new scrutiny committee or changes to the existing sub-committee would require approval by Full Council and amendments to the

Constitution. Establishing a new Committee would require a Special Responsibility Allowance for the new Chair.

Way forward

- 4.1 The timetable below has been proposed to introduce the proposed new arrangements for the scrutiny function (assuming the Council agrees to proceed with the final proposed model):

| | |
|----------------------------|---|
| 17 March 2021 | Council decision to agree revised scrutiny structure |
| 19 May 2021 | Council nominates members to new committee or sub-committee agrees calendar of meetings for 2022/22 |
| May to September 2021 | Induction programme for new councillors, scrutiny training and development LGA lead a scrutiny review and support development of scrutiny skills and work plans for each Committee relating to Bury 2030; Corporate plan, performance and financial management including topics for in depth policy review by Task and Finish Groups |
| September 2021 to May 2022 | Work programmes commence Scrutiny Task and Finish groups commence Operation and evaluation Chairs of Overview and Scrutiny Committees engage with Cabinet and Executive Management Team to review operation and propose changes |

5. Alternative options considered and reasons for rejection

Doing nothing remains an option following this review.

Community impact / Contribution to the Bury 2030 Strategy

Delivery of effective scrutiny is an essential element of delivering the Council's Corporate Plan and underpins all of its Corporate Priorities.

Equality Impact and considerations:

24. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*
25. *The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.*

There are no equalities implications.

Assessment of Risk:

The following risks apply to the decision:

| Risk / opportunity | Mitigation |
|--|---|
| By changing scrutiny and upsetting the status quo, there is the risk that something that would have been picked up under the existing structure gets missed with a detrimental effect on the organisation or the services it delivers to residents | This risk can be mitigated by a careful transition to new arrangements, ensuring matters of concern are carried over. |

Consultation: Consultations have taken place with the Members of the Safeguarding Sub Group and with Chair's of the Overview and Scrutiny Committee and Health Scrutiny Committee.

The issue was discussed at the meeting of the Democratic Arrangements Forum on 2 March 2021

Legal Implications:

The Local Government Act 2000 requires all local authorities to establish arrangements for effective scrutiny with sufficient power to

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,
- (b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,
- (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,
- (d) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive,
- (e) to make reports or recommendations to the authority or the executive on matters which affect the authority's area or the inhabitants of that area

- This report supports the discharge of this function in accordance with the legislative requirements.
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Financial Implications:

Option 1 would result in an additional SRA Allowance of £ 6,379.14 (2020/21 Scheme) for new Scrutiny Chair.

There are no additional costs associated with Option 2.

Report Author and Contact Details:

Background papers:

Safeguarding Children - A practical guide for overview and scrutiny councillors LGA/CfPS

<https://cfigs.org.uk/wp-content/uploads/Safeguarding-Children-1.pdf>

Appendix 1 – TERMS OF REFERENCE

A. Overview & Scrutiny Committee

- To review and scrutinise the decisions made or actions taken in connection with the discharge of any of the Council's functions.
- To review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and all particular service areas.
- To set up, appoint and monitor Overview Project Groups (set up to carry out reviews of policies, services or the impact of decisions).
- To make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the Scrutiny process.
- 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.
- Oversight of the provision, planning and management of the assets and audit arrangements.
- Oversight of the Council's corporate plans and strategies and the monitoring of the corporate plan and departmental plans.
- To scrutinise outside bodies and partners relevant to the Council.
- To receive all reports from external inspectors.

B Health Scrutiny Committee

- 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.
- To oversee the health and well-being of the borough's population
- To scrutinise the provision, planning and management of Adult Care Services.
 - To monitor the implementation of any scrutiny recommendations accepted by the Cabinet.

C Children and Young People Overview and Scrutiny Committee/Sub Committee (Draft Terms of Reference Tbc)

- To review the general policies and performance of the Council and external organisations in relation to the following areas:
 - Education and Schools
 - Children and Young People Support and Safeguarding Services
 - Children and Young People Specialist Services
- To scrutinise individual Cabinet decisions relating to the above areas.
- To monitor the Council's performance in the above areas.

- To scrutinise statutory inspection reports and oversee the implementation of any recommendations arising from such reports