
Amendments to the Constitution to Support Changes to Overview and Scrutiny Arrangements

Committee considering report:	Council
Date of Committee:	15 May 2025
Portfolio Member:	Councillor Jeff Brooks
Date Portfolio Member agreed report:	10 April 2025
Report Author:	Gordon Oliver

1 Purpose of the Report

- 1.1 To set out proposed amendments to the Constitution in light of proposed changes to the Council's overview and scrutiny arrangements.

2 Recommendation(s)

- 2.1 It is recommended that Council:
- (a) approves the proposed changes to the Scrutiny Model from 1 September 2025, replacing the two existing committees (Scrutiny Commission and Health Scrutiny Committee), with three committees as follows:
 - Resources and Place Scrutiny Committee
 - Children and Young People Scrutiny Committee
 - Health and Adult Social Care Committee
 - (b) delegates amendments to the Constitution that are necessary to accommodate the above changes to the Scrutiny Model (outlined in Section 5 of this report) to the Monitoring Officer in consultation with the Constitution Review Task Group
 - (c) approves the updated programme of public meetings required to accommodate the above changes to the Scrutiny Model (as set out in Appendix C).

3 Implications and Impact Assessment

Implication	Commentary
Financial:	<p>Due to going from 2x committees to 3x committees this would add in an additional chair allowance of £5,480 (tier 6), for which is around £5,555 with on-costs.</p> <p>This would only be a financial implication in year if someone not currently on a tier 6 allowance or greater takes the responsibility, therefore gaining the allowance. This is as per the scheme if anyone currently on tier 6 or greater took on the responsibility they would forego the additional allowance to avoid duplicate allowance being paid.</p> <p>It would be something that could be factored in as an additional budget requirement in the 26/27 budget build.</p> <p>There is currently budget for 4x co-opted members built for the 25/26 budget at £1,132 each (as per the scheme). The proposed change to add 2x further co-opted Members would add a £2,264 pressure, but could be something factored into the 26/27 build as an ongoing requirement.</p> <p>There are no specific budget set for travel and expenses per board, and instead an overarching budget for the members in total. The total budget is: £5,570 (£1,560 for travel & £4,010 for mileage), this would need to be sufficient for all members and meetings.</p> <p>Finance Date: 25/03/2025</p>
Human Resource:	<p>Additional Scrutiny Officer resource would be required to support the Children and Young People Scrutiny Committee. In the absence of additional funding being agreed the workload of the Democratic Services Team would need to be reviewed.</p>
Legal:	<p>Local authorities in England are legally required to establish overview and scrutiny committees to monitor council performance, review services, and ensure accountability, as outlined in the Local Government Act 2000 sections 9F to 9FL.</p> <p>Legal Date: 25/03/2025</p>
Risk Management:	<p>Increasing the number of Scrutiny Committees will share the workload to ensure that effective scrutiny of key functions are undertaken including key areas of Adult Social Care and</p>

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	Children and Family Services. This will ensure constructive challenge is provide and drive improvement in our services and strategic decision making to reduce potential risks. The effectiveness of the scrutiny function is often considered by external bodies such as regulators and inspectors and highlighted in public report. Failures in this area can therefore create a negative public image of the authority as a whole.			
Property:	There are no property implications associated with this report.			
Policy:	The proposed changes would help the Council to comply with national statutory guidance and best practice on overview and scrutiny.			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?	X			<p>The proposals will help to reduce inequalities, particularly for residents and service users who are care experienced.</p> <p>Further information is provided in the attached EIA.</p>
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?	X			<p>The proposals will have particular benefit for residents and service users with the following protected characteristics:</p> <ul style="list-style-type: none"> • Age • Disability • Religion or belief <p>Further information is provided in the attached EIA.</p>
Environmental Impact:		X		

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Health Impact:	X			<p>It is proposed to expand the remit of the Health Scrutiny Committee to consider issues related to Adult Social Care, which will allow for improved scrutiny of cross-cutting issues such as Continuing Health Care.</p> <p>Having a dedicated Children and Young People Scrutiny Committee will increase capacity to undertake scrutiny of issues that affect the safety and achievement of children and young people.</p>
ICT Impact:		X		
Digital Services Impact:		X		
Council Strategy Priorities:	X			<p>The changes will help to deliver a number of Council Strategy priorities, including scrutiny committees being chaired by Members of the Opposition, and Adult Social Care / Children and Family Services achieving 'good' or 'excellent' ratings.</p>
Core Business:	X			
Data Impact:		X		
Consultation and Engagement:	<p>The following have been consulted:</p> <ul style="list-style-type: none"> • Constitution Review Task Group • Chairman of Scrutiny Commission • Chairman of the Health Scrutiny Committee • Sarah Clarke (Monitoring Officer) • Dawn Bond (Legal Services Manager) • Vicky Phoenix (Principal Policy Officer – Health Scrutiny) 			

4 Executive Summary

- 4.1 An internal review of the Council's overview and scrutiny arrangements was carried out, which took account of legislative requirements, national guidance and best practice

advice. It also considered scrutiny arrangements at other unitary authorities of an equivalent size to West Berkshire.

- 4.2 The review was discussed at Constitution Review Task Group where options for changes to the Council's overview and scrutiny arrangements were discussed and a preferred model identified. It was agreed that the proposed changes be taken to Governance Committee for consideration before being presented to the Annual Meeting of Council for final approval.

5 Supporting Information

Introduction

- 5.2 The Local Government Act (2000) introduced changes to the political governance system for councils in England and Wales, with a separate 'executive' in the form of a leader (or elected mayor), and cabinet. To provide a counterweight to this, the Act also introduced the concept of 'overview and scrutiny,' whereby every council with an executive governance structure is required to have at least one overview and scrutiny committee. This enables the rest of the council to scrutinise the decisions and policies of the executive, and to make recommendations informed by evidence and understanding of the needs of local residents.
- 5.3 The National Health Services Act 2006 (as amended by the Health and Care Act 2022) gives local authorities the power to review and scrutinise matters relating to the planning, provision and operation of the health service in the local area.

Current Arrangements

- 5.4 West Berkshire Council currently has two Overview and Scrutiny Committees – the Scrutiny Commission and the Health Scrutiny Committee.
- 5.5 The Scrutiny Commission is responsible for reviewing Executive decisions, as well as Council policies and services. Its remit also extends to scrutiny of external organisations and partners, in order to improve the lives of local people. In particular, the Commission acts as the Council's Crime and Disorder Committee, scrutinising the activity of the Community Safety Partnership (in accordance with the Police and Justice Act 2006). The Scrutiny Commission has nine Members and is chaired by a Member of the Minority Group. It has five scheduled meetings per year (including one to review the draft budget before it goes to Executive). Additional meetings are arranged as and when necessary to review Executive decisions that have been called-in and to respond to urgent issues.
- 5.6 The Health Scrutiny Committee is responsible for ensuring that the needs and experiences of local residents are considered as an integral part of the planning, development and operation of health services and that those services are safe and effective in meeting local needs. The Committee responds to formal consultations on health matters. (Health bodies are required to consult a local authority's Health Scrutiny Committee about any proposals they have for a substantial development or variation in the provision of health services in their area.) Health scrutiny also has a strategic role in taking an overview of how well integration of health, public health and social care is working and making recommendations about how it could be improved. The Health Scrutiny Committee has five Members and is chaired by a Member of the

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Administration. It reports to the Scrutiny Commission, but it has autonomy in terms of determining its own work programme.

5.7 A number of issues have been identified with the Council's current overview and scrutiny arrangements as set out below:

- The Scrutiny Commission lacks the capacity to undertake reviews across all of the Council's priority areas due to a lack of Member and Officer capacity.
- Members may struggle to develop the specialist knowledge necessary to be able to undertake scrutiny of particular topics (e.g., Adult Social Care and Children's Services).
- Scrutiny of Adult Social Care Services is hampered by the fact that this is carried out by the Scrutiny Commission rather than the Health Scrutiny Committee, since health and adult social care issues are often inextricably linked.
- The Council does not currently have the statutory co-optees that are required to support scrutiny reviews of education matters (as per Schedule A1 of the Local Government Act 2000).
- Health Scrutiny Committee sometimes struggles to achieve a quorum.

Proposals

5.8 It is proposed to replace the two existing overview and scrutiny committees with three committees as follows:

- Resources and Place Scrutiny Committee
- Children and Young People Scrutiny Committee
- Health and Adult Social Care Scrutiny Committee

5.9 It is also proposed to abolish the Planning, Transport, and Environment Advisory Groups and instead create a single Policy Development Group (PDG), which may itself have working groups. The PDG would sit outside of the formal Overview and Scrutiny Process and membership would be drawn from the Executive as well as back-bench Members. Scrutiny Committees would not be precluded from reviewing any matter already considered by the Policy Development Group.

5.10 Each scrutiny committee would be independent and responsible for setting its own work programme. However, it is expected that there would be liaison between Scrutiny Chairmen between meetings to ensure that work programmes are co-ordinated and to avoid any duplication.

5.11 It is proposed that each committee would have **XX** Members, with the Chairmen being a mix of Minority Group, Opposition, and Administration Members but being politically balanced.

5.12 Each committee would be able to call-in Executive decisions that relate to its particular area of responsibility.

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- 5.13 The Resources and Place Scrutiny Committee would be designated as the Council's Crime and Disorder Committee. It would also have responsibility for budget scrutiny and scrutiny of corporate performance.
- 5.14 The Children and Young People Scrutiny Committee would be responsible for scrutinising Education matters as well as Children's Social Services, and would therefore require the following statutory co-optees:
- two parent governor representatives from local authority-maintained schools (one primary and one secondary);
 - a designated Church of England representative; and
 - a designated Roman Catholic diocesan representative
- 5.15 It is also proposed to have two young people as co-optees to get the perspective of students/service users. This would require additional protocols to be put in place to address safeguarding issues, as well as specialist training for Members and Co-opted Members, and possibly additional support to help the young people to understand the issues and develop suitable lines of questioning.
- 5.16 Statutory co-optees would be permitted to vote on Education related matters only. Non-statutory co-optees would not be entitled to vote. All co-optees would be permitted to speak on any agenda item. Given the significant time implications associated with attending meetings, and the challenges faced by most local authorities in recruiting co-optees, it is proposed that they be paid an annual rate equal to that currently paid for the independent persons, plus reasonable travel and subsistence expenses in line with the current policy.
- 5.17 The above would require extensive changes to the Constitution, including the following:
- Part 3.1 – Individual Meeting Rules Appendix
 - Part 3.3 – Petitions Appendix
 - Part 5 – Executive
 - Part 5.1 – Executive Appendix
 - Part 6 – Council Bodies
 - Part 6.3 – Health and Wellbeing Board Appendix
 - Part 6.4 – Health and Adult Social Care Scrutiny Committee Appendix (formerly Health Scrutiny Committee Appendix)
 - Part 6.9 – Resources and Place Appendix (formerly Scrutiny Commission Appendix)
 - Part 6.10 – Children and Young People Scrutiny Committee Appendix (New)
 - Part 7 – Budget and Policy Framework

- Part 14 – Members’ Allowance Scheme.

5.18 Draft terms of reference for each of the three Scrutiny Committees are included in Appendix B. It is proposed that the remaining changes be agreed by the Monitoring Officer in consultation with the Constitution Review Task Group.

6 Other options considered

6.1 A variety of other options were considered, including:

- **Option 1:** Do nothing – this was discounted on the basis that it would not address the issues identified in paragraph 5.7 above.
- **Option 2:** Retain two scrutiny committees, but transfer responsibility for scrutiny of Adult Social Care from the Scrutiny Commission to the Health Scrutiny Committee – while this would support scrutiny reviews of cross-cutting issues, it would not deliver additional capacity for scrutiny.
- **Option 3:** Having a Scrutiny Commission and a series of Scrutiny Sub-Committees, with the Commission setting the work programme of the Sub-Committees – while this would have some advantages in terms of coordination of workstreams, the scrutiny sub-committees would be less responsive to emerging issues.

7 Conclusion

The proposed changes outlined in paragraphs 5.8 to 5.17 would address the issues identified in paragraph 5.7 above.

8 Appendices

Appendix A – Equalities Impact Assessment

Appendix B – Terms of Reference for the Scrutiny Committees.

Appendix C – Revised Meeting Timetable

Background Papers:

None

Subject to Call-In:

Yes: ☐ No: ☒

The item is due to be referred to Council for final approval ☒

Delays in implementation could have serious financial implications for the Council ☐

Delays in implementation could compromise the Council's position ☐

Considered or reviewed by Scrutiny Commission or associated Committees, Task Groups within preceding six months ☐

Item is Urgent Key Decision ☐

Report is to note only ☐

Wards affected: N/A

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West Berkshire Council
Equity Impact Assessment

TEMPLATE

March 2023

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Section 1: Summary details

Directorate and Service Area	Resources – Legal and Democratic Services
What is being assessed (e.g. name of policy, procedure, project, service or proposed service change).	Changes to the Council’s overview and scrutiny structure
Is this a new or existing function or policy?	Existing
Summary of assessment Briefly summarise the policy or proposed service change. Summarise possible impacts. Does the proposal bias, discriminate or unfairly disadvantage individuals or groups within the community? (following completion of the assessment).	It is proposed to replace the two existing overview and scrutiny committees with three committees as follows: <ul style="list-style-type: none"> • Resources and Place Scrutiny Committee • Children and Young People Scrutiny Committee • Health and Adult Social Care Committee
Completed By	Gordon Oliver (Principal Policy Officer – Democratic Services and Scrutiny)
Authorised By	
Date of Assessment	24 January 2025

Section 2: Detail of proposal

Context / Background Briefly summarise the background to the policy or proposed service change, including reasons for any changes from previous versions.	<p>The proposed changes are designed to address the following issues:</p> <ul style="list-style-type: none">• The Scrutiny Commission lacks the capacity to undertake reviews across all of the Council's priority areas due to a lack of Member and Officer capacity.• Members may struggle to develop the specialist knowledge necessary to be able to undertake scrutiny of particular topics (e.g., Adult Social Care and Children's Services).• Scrutiny of Adult Social Care Services is hampered by the fact that this is carried out by the Scrutiny Commission rather than the Health Scrutiny Committee, since health and adult social care issues are often inextricably linked.• The Council needs to appoint statutory co-optees to support scrutiny reviews of education matters (as per Schedule A1 of the Local Government Act 2000).
Proposals Explain the detail of the proposals, including why this has been decided as the best course of action.	<p>It is proposed to replace the two existing overview and scrutiny committees with three committees as follows:</p> <ul style="list-style-type: none">• Resources and Place Scrutiny Committee• Children and Young People Scrutiny Committee• Health and Adult Social Care Committee <p>The proposed course of action would address the issues identified above, while ensuring that the committees remain responsive to emerging issues.</p>
Evidence / Intelligence List and explain any data, consultation outcomes,	<p>There is a risk that unless capacity is increased, issues affecting key services, such as Adult Social Care, Children and Family Services, and Education may not be subject to proper scrutiny. This could potentially</p>

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<p>research findings, feedback from service users and stakeholders etc, that supports your proposals and can help to inform the judgements you make about potential impact on different individuals, communities or groups and our ability to deliver our climate commitments.</p>	<p>put service users at risk of harm, or mean that they do not receive an optimum service and consequently do not achieve their full potential.</p> <p>These aspects are covered in Ofsted and CQC reviews. The action plan developed in response to the recent CQC assessment of WBC's Adult Social Care service included the following recommendations related to scrutiny:</p> <ul style="list-style-type: none">• Councillors, including those leading Scrutiny, continue to take up offers of LGA support in relation to Adult Social Care - including attendance at seminars and conferences and peer mentoring.• The Council makes decisions about its arrangements for Scrutiny so that Councillors scrutinise Adult Social Care in an effective, consistent and coherent way, including where services are integrated with the NHS.• Consideration is given as to how Executive and Scrutiny Councillors can be appropriately engaged with and understand the work and outcomes of the Safeguarding Adults Board, including ensuring that the Chair of the Independent Board has positive and consistent engagement with relevant Councillors. For example, consideration should be given to the Adult Social Care Independent Chair of the SAB presenting to Scrutiny Committee on an annual basis.• Consideration is given to how Councillors will monitor and scrutinise the implementation and outcomes of the Action Plan in relation to the areas for development in the Care Quality Commission Assessment Report published on 17th May 2024.• In its scrutiny of Adult Social Care, the council should consider how the views of people with lived experience and carers are proactively sought and how Scrutiny members are engaged directly with people with lived experience and carers. <p>Reference has also been made to the Centre for Governance and Scrutiny document: <u>Structures, resources and formal powers - A Practice Guide.</u></p>
<p>Alternatives considered / rejected</p>	<p>A variety of other options were considered, including:</p>

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<p>Summarise any other approaches that have been considered in developing the policy or proposed service change, and the reasons why these were not adopted. This could include reasons why doing nothing is not an option.</p>	<ul style="list-style-type: none">• Option 1: Do nothing – this was discounted on the basis that it would not address the issues identified in paragraph 5.7 above.• Option 2: Transferring responsibility for scrutiny of Adult Social Care from the Scrutiny Commission to the Health Scrutiny Committee – while this would support scrutiny reviews of cross-cutting issues, it would not deliver additional capacity for scrutiny.• Option 3: Having a Scrutiny Commission and a series of Scrutiny Sub-Committees, with the Commission setting the work programme of the Sub-Committees – while this would have some advantages in terms of coordination of workstreams, the scrutiny sub-committees would be less responsive to emerging issues.• Option 4: Having three Scrutiny Committees as set out in Section 5 of this report, but with an additional Policy Development Committee to replace the existing Planning, Transport, and Environment Advisory Groups. <p>The Centre for Governance and Scrutiny (CfGS) advised that all overview and scrutiny committees should have responsibility for both policy development and scrutiny of Executive decisions. Their work with other local authorities has shown that removing policy development from an overview and scrutiny committee removes the positive aspects, leading to committees becoming more negative and political. It also creates the potential for conflicting views between members of the Policy Development Committee and the relevant Scrutiny Committee. As a result, the number of call-ins would be likely to increased greatly. While there may be a temptation to manage this by reducing the opportunity for a scrutiny committee to call-in decisions that had already been to a policy development committee in the previous 6 months, this is questionable from a legal perspective and it would significantly undermine the effectiveness of the scrutiny committee and councillors may lose interest in positively contributing to its work. Additionally, the CfGS found that where this model was adopted, the executive was effectively dictating the work of the policy development committee, and in doing so, removed their independence. As such, they became talking shops that achieved little.</p> <ul style="list-style-type: none">• Option 5: A variation on Option 4, with one or more standing overview groups reporting to the relevant overview and scrutiny committee on a regular basis. This would have the advantage of allowing sensitive conversations to take place in private, while still allowing for a degree of transparency and public debate.
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Section 3: Impact Assessment - Protected Characteristics

Protected Characteristic	No Impact	Positive	Negative	Description of Impact	Any actions or mitigation to reduce negative impacts	Action owner	Timescale and monitoring arrangements
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Improved scrutiny of ASC and CFS will help to ensure that the needs of older and younger residents are better understood and met.		Scrutiny Officer	
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Improved scrutiny of ASC and CFS will help to ensure that the needs of adults and children with disabilities and additional needs are better understood and met.		Scrutiny Officer	
Gender Reassignment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
Marriage & Civil Partnership	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
Pregnancy & Maternity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
Race	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				

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Protected Characteristic	No Impact	Positive	Negative	Description of Impact	Any actions or mitigation to reduce negative impacts	Action owner	Timescale and monitoring arrangements
Sex	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
Religion or Belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Having co-opted members representing faith schools on the Children and Young People Scrutiny Committee would ensure that their voices are heard when undertaking reviews of education matters.			

Section 3: Impact Assessment - Additional Community Impacts

Additional community impacts	No Impact	Positive	Negative	Description of impact	Any actions or mitigation to reduce negative impacts	Action owner	Timescale and monitoring arrangements
Rural communities	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
Areas of deprivation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				

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Additional community impacts	No Impact	Positive	Negative	Description of impact	Any actions or mitigation to reduce negative impacts	Action owner	Timescale and monitoring arrangements
Displaced communities	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				
Care experienced people	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Improved scrutiny of ASC and CFS will help to ensure that the needs of care experienced residents are better understood and met.		Scrutiny Officer	
The Armed Forces Community	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				

Section 4: Review

Where bias, negative impact or disadvantage is identified, the proposal and/or implementation can be adapted or changed; meaning there is a need for regular review. This review may also be needed to reflect additional data and evidence for a fuller assessment (proportionate to the decision in question). Please state the agreed review timescale for the identified impacts of the policy implementation or service change.

Review Date	
Person Responsible for Review	
Authorised By	

EDI employee related EQiA's should now be sent to Human Resources hrenquiries@westberks.gov.uk