

---

**Report to:** Overview and Scrutiny Committee

**Date:** 13 November 2020

**Subject:** **Governance & Scrutiny Working Group**

---

**Director:** Angela Taylor, Director of Corporate Services

**Author:** Khaled Berroum, Scrutiny Officer

---

## **1. Purpose of this item**

- 1.1 To consider one of three possible models for scrutiny to recommend.
- 1.2 To note some early ideas on methods for scrutinising a mayor directly.
- 1.3 To consider recommendations regarding a governance review.

## **2. Information**

### Background

- 2.1 At its 11 July 2020 meeting, the Committee appointed a *Governance & Scrutiny Working Group* to 'provide input into and make recommendations regarding a new governance structure and new scrutiny arrangements'.
- 2.2 The members of the working group are Councillors James Baker (Lead Member), Dot Foster, Andrew Hollyer, Yusra Hussain and David Jones. Cllr Harrand also attended some sessions.
- 2.3 The working group met four times between mid-September and late-October. The group analysed the Combined Authority's current governance structure and its history, looked at other mayoral combined authorities' scrutiny arrangements, discussed the main challenges scrutiny currently faces and what new challenges are expected with an expanded mayoral authority.
- 2.4 Issues discussed included greater training and support for members, member and chair role profiles, report formats including independent analysis and summaries, possible pre meetings for question planning, greater pre-decision scrutiny of key decisions/projects, the number (and role) of scrutiny officers,

engagement with the public and stakeholders, and efficient use of working groups and spokespersons for overview.

### Scrutiny models

- 2.5 Before more detailed solutions and systems could be determined, the working group agreed that a new model and structure for scrutiny must first be devised and agreed.
- 2.6 In general, there was a consensus that any new combined authority scrutiny model will almost certainly need more resources and support staff, a higher public profile to better engage with the public/stakeholders and a more focused purpose that does not duplicate scrutiny-like work currently undertaken by other committees and advisory panels
- 2.7 The working group considered how scrutiny operates in other regional authorities including Greater Manchester and Greater London and also considered the differences between local scrutiny models and methods and what might work at a regional level and a much wider geography and strategic model. Parliamentary and Assembly select committees were also taken into consideration.
- 2.8 There are three options presented in greater detail, along with summarised advantages and disadvantages of each option, in **Appendix 1**. The three options are:
  1. **Option 1 – one enhanced select committee:** A single committee (supported by permanent sub-groups focusing on certain areas such as pre decision scrutiny of key projects, public engagement and reviews) operating in ‘select committee style’ with a wider term of reference, greater operational resources, and significantly enhanced role profiles for scrutiny members and officers to support a more pro-active, ‘big picture’ and strategic approach to scrutiny.
  2. **Option 2 – three committees divided thematically:** Three co-equal committees each shadowing one of the main functions, directorates and committees of the Combined Authority in a more reactive, focused approach; one to look at economic policy/services/functions, one on transport policy/services/functions and one more generalist one to cover all other matters, incl. strategic (mayors plan), police and corporate issues. Each of these committees will also still be able to form subgroups and do reviews etc.
  3. **Option 3 – two committees divided by function:** Two co-equal committees operating within a binary system where the overview (monitoring, reactive) and scrutiny (focused but proactive) parts are undertaken separately by different committees allowing chairs, members and officers with particular experience to focus more closely on particular types of scrutiny which require different skills. Each of

these committees will also still be able to form subgroups and do reviews etc.

- 2.9 It is suggested that, after the Committee chooses a model to recommend, further work is done by member volunteers in a workshop setting to identify more detailed operational changes to scrutiny and an implementation plan – incorporating solutions on the issues mentioned in paragraphs 2.4 and 2.6. **This report would be brought back to a future meeting.**

#### Scrutiny of the mayor and regional scrutiny cooperation/member engagement

- 2.10 The working group also looked at how mayors in other areas are held to account and scrutinised directly. An overview of ‘lessons learned’ from ‘mayors question time’ in other combined authority areas and some early ideas for West Yorkshire is attached at **Appendix 2**. It is suggested these ideas be expanded upon in the future implementation report mentioned in paragraph 2.9.
- 2.11 One other area of interest is how local authority and combined authority scrutiny can cooperate on a regional level. It is well understood that the strategic nature of the combined authority has posed challenges to scrutiny that is modelled on local authority scrutiny. The working group investigated the possibility of a regional arrangement that seeks to foster cooperation between local and combined authority scrutiny to ensure that scrutiny is being done at the ‘right level’. Ideas were shared with local scrutiny chairs and their comments are still being awaited.

#### Governance Review

- 2.12 The working group also considered the current governance structure and the possibility of governance reform as they found that it was not possible to review the effectiveness of scrutiny arrangements without also considering governance.
- 2.13 The working group’s view was that scrutiny is a fundamental part of any efficient and equitable governance structure and decision-making process and that the way that the current governance structure works means that a lot of ‘small-s scrutiny’ work is undertaken by ‘competing’ committees (such as Transport and its district sub-committees) and ‘expert’ panels (such as the advisory panels and a number of informal working groups).
- 2.14 It is understood that, following the approval of the Mayoral Order by all constituent councils, there will likely be two phases of governance work. The first phase is ensuring that current arrangements allow for the exercise of new *non-mayoral* functions which the authority will be able to exercise after the Order is approved (expected in early 2021). The second phase is the formation of the new constitution which will outline how all new powers/functions will be exercised, including mayoral-only functions, which only become exercisable upon the election of the mayor in May 2021. The first phase must be completed by the time the Order is laid before parliament and

the second phase (constitution) will be approved at the annual meeting in June 2021.

- 2.15 Ideally, the working group would have liked to see the authority take a clean slate approach and design a new governance structure for the mayoral era that took into account the new organisation's needs without consideration of any 'legacy' governance arrangements which had historically been carried over from previous iterations of the organisation. Any re-design would also ideally take into account the potential of any streamlining and further efficiencies in decision making processes and structures.
- 2.16 However, the working group also recognised that this is not an easy task to accomplish in the time available, with less than a few months to the 'purdah' pre-election period. There are many challenges involved in reforming the current structure including political sensitivities and a requirement to revisit the previously agreed shared structure arrangements with the Local Enterprise Partnership (LEP). There was also the question of whether the directly mayor should be involved in helping shape new governance structure.
- 2.17 Consequently, the working group suggests a full review take place, possibly with the involvement of the new mayor and scrutiny and the Committee take an interest in the formation of the constitution prior to that.

### **3. Financial Implications**

- 3.1 All three options require greater investment and resources to be committed to scrutiny in future when the authority's functions and responsibilities expand. Although exact figures are yet to be determined, it is understood that the greater the number of scrutiny committees the greater the investment and staff required.
- 3.2 Resource decisions are considered as part of the annual budget setting and business planning process, which is overseen by combined authority members through a budget working group and approved by the Combined Authority in a public meeting.

### **4. Legal Implications**

- 4.1 Options 2 and 3 constitute changes to the current formal governance structure and will require explicit approval from the West Yorkshire Combined Authority before they can be implemented. This would require a further report to be made to the Combined Authority setting out a recommendation.
- 4.2 Option 1's structure does not require direct approval to implement as it retains a single committee that merely exercises its duties in a different way, although the name change would constitute a minor technical change requiring approval from the Combined Authority at an appropriate time.

- 4.3 Other changes to resourcing and staffing (for all options) would also require approval through the relevant decision-making processes and by the Combined Authority. Further information in 3.2 above.
- 4.4 Regardless of the model chosen, the number of committees or what they are named, every committee will be regarded legally as an 'overview and scrutiny committee' and subject to all statutory regulations on such committees. For combined authority scrutiny, these are (amongst others):
- Scrutiny committees must be proportionally politically balanced based on the most recent election results, across West Yorkshire as a whole
  - Scrutiny committees cannot be chaired by a member from the same party as the elected mayor
  - That a quorum of two-thirds of members must be present for a meeting to go ahead and make decisions (recommendations, call in, reports)
- 4.5 All three options are compliant with existing legislation and guidance on scrutiny. Technically speaking, regarding Option 3, all appointed scrutiny committees are 'overview *and* scrutiny' committees, but in practice committees can choose to focus on particular issues and/or divide duties between themselves through terms of reference and other agreements.
- 4.6 Scrutiny of policing and all Police & Crime Commissioner functions falls under the statutory responsibility of the existing Police & Crime Panel which will come under the Mayoral Combined Authority's purview.

## **5. Staffing Implications**

- 5.1 All three options require additional staffing resources to be dedicated to better support scrutiny of the widely expanded mayoral combined authority, mayor and all new powers, functions and responsibilities. The greater the number of committees, the greater the staff required. Although Option 1 retains one committee, the additional work generated and functions to be overseen would still require further staff than at present. The process for securing staffing changes is outlined in paragraph 3.2 above.

## **6. External Consultees**

- 6.1 The chairs of relevant scrutiny committees in the partner authorities were informally consulted on how combined authority and local scrutiny can best cooperate at a regional level in future and how ward councillors can best engage with combined authority scrutiny. These comments are still being awaited and the Committee will be updated at a future meeting on any comments received from local scrutiny chairs.

## **7. Recommendations**

- 7.1 That the Overview and Scrutiny Committee choose which of the three options outlined in **Appendix 1** be recommended to the Combined Authority as a model for scrutiny going forward.

- 7.2 That a second report be submitted to a future meeting outlining a trackable action plan to implement the chosen model and that a workshop open to all members be arranged to help form ideas for this report.
- 7.3 That the chosen model be revisited within 18 months (by May 2022) with an option to activate this follow up review earlier than that if necessary.
- 7.4 That scrutiny consider the new constitution prior to its approval.
- 7.5 That a review of governance be undertaken, if possible with the involvement of scrutiny and the mayor, and that this topic be added to the Committee's work programme for 2021/22 if not completed by then.

## **8. Background Documents**

None.

## **9. Appendices**

Appendix 1 – Options for scrutiny (3 potential models)

Appendix 2 – Ideas on directly scrutinising the mayor