



General Purposes Urgency Sub-Committee

Date:	10 May 2012
Classification:	For General Release
Title:	Constitutional Issues
Report of:	Head of Legal and Democratic Services
Wards Involved:	Not Applicable
Policy Context:	Governance of the City Council
Financial Summary:	There are no financial implications
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1. Executive Summary

- 1.1 This report asks the General Purposes Urgency Sub-Committee to consider the changes necessary following the review of Policy and Scrutiny Committees referred to by the Leader in her speech to Council on 7 March 2012. A summary of the key issues arising from the review are set out in Appendix A. Also set out in this report are proposals to reduce the number of Policy and Scrutiny Committees to 4 and also an option to reduce the number of Members on these Committees from the current 9.
- 1.2 The report also details the constitutional issues or amendments arising from the necessary changes to the Council's standards arrangements, as recommended by the Standards Committee at its meeting on 24th April 2012.
- 1.3 Currently the Policy and Scrutiny Committees and the Audit and Performance Committee do not appoint Vice-Chairmen, but may do so. In the event that they do and in recognition of the increased workload of these Committees, it is proposed to make a small amendment to the Members Allowances Scheme by adding a Special Responsibility Allowance of £2,000 pa to the Vice-Chairmen of the Policy and Scrutiny Committees and to the Vice-Chairmen of the Audit and Performance Committee.

- 1.4 Proposals for the meeting dates for the first cycle of the new Policy and Scrutiny Committees are included. It is also proposed to develop a rationalised approach to when various bodies meet, as explained in paragraph 3.8 below.
- 1.5 As part of the matters referred to in 1.2 above the Urgency Sub-Committee is asked to consider asking the Council to expand the remit of the Extraordinary Council Meeting on 25th June 2012 to also include approval of a new Code of Conduct for Members, in view of the delay in the issue of Regulations setting out details of the Statutory Pecuniary Interests. The changes to the Standards Committee result in some fairly minor changes to the terms of reference of the Audit and Performance Committee and these are also included for recommendation to the Council.
- 1.6 The Chief Operating Officer is currently undertaking a review of the Council's financial regulations with a view of presenting these for approval shortly. As explained in paragraph 3.22 below a revised Standing Order 48, which sets out the approval process for the financial regulations is proposed.

2. Recommendations

- 2.1 That the Annual Council be recommended to appoint the Policy and Scrutiny Committees with responsibilities as set out in Appendix B, with the constitutions as set out in Appendix D or E in place of the existing Policy and Scrutiny Committees and that Officers be asked to report the relevant Committee proportionality to the Annual Council meeting on 16th May.
- 2.2 That the issues highlighted in the consultation as best practice, set out in Appendix C, be endorsed and referred to Westminster Scrutiny Commission and the new Policy and Scrutiny Committees for implementation.
- 2.3 That the Council be recommended to adopt a new Code of Conduct at the Extraordinary Council Meeting on 25th June 2012, to allow for the necessary Regulations relating to Pecuniary Interests to be issued by the Secretary of State and incorporated;
- 2.4 That the Council be recommended to establish a new Standards Committee with a membership of 8 Members (6 Majority Party and 2 Minority Party Members) with the Terms of Reference as set out in Appendix F;
- 2.5 That the function specified in paragraph 3.15 be transferred to the Audit and Performance Committee and the revised Terms of Reference set out in Appendix G be recommended to the Council for adoption at its Annual Meeting on 16th May 2012;
- 2.6 That the Council be recommended to approve the amendments to the Members Allowances Scheme set out in paragraph 3.18 below;
- 2.7 That the programme of meetings for the first cycle of the Policy and Scrutiny Committees be subject to immediate consultation with the Chairmen of the Policy and Scrutiny Committees when appointed, as set out in paragraph 3.8 below;

- 2.8 That the arrangements for the programme of meetings of the Council, Committees, Sub-Committees and Area Forums as set out in paragraph 3.9 below be endorsed for further work by Officers.
- 2.9 That the Council be recommended to approve the revised Standing Order 48, relating to the approval of the financial regulations as set out in paragraph 3.22 below.
- 2.10 That the Chief Executive be asked to write to each of the existing Independent Members on behalf of the Council, setting out the Council's thanks and a small corporate gift as an expression of gratitude for their service to the City Council.

3. Background Information

Policy and Scrutiny Review

- 3.1 Following the announcement by the Leader in her speech to Council on 7 March a review of the current Policy and Scrutiny Committees has been undertaken to see if any improvements could be made. The Westminster Scrutiny Commission have been involved and a consultation exercise has been undertaken, the results of which are summarised in Appendix A.
- 3.2 As a result of this it is proposed to reduce the overall number of Policy and Scrutiny Committees with the potential to meet more often (for example, up to 8 times per annum) to focus at each meeting on a specific items, and for a report and recommendations to arise from each from in-depth scrutiny.
- 3.3 The review of Policy and Scrutiny Committees has mainly focused on changes to emphasis as well as instituting established best practice in scrutiny and as a result do not require any changes to the Constitution. However, the Policy and Scrutiny rules will be reviewed and any changes reported to the WSC who will monitor the implementation of the arrangements.
- 3.4 One issue arising from the review was the number of Members to be appointed to each Policy and Scrutiny Committee. Currently there are 9 Members (7 Majority Party and 2 Minority Party Members) on each of the Policy and Scrutiny Committees. In keeping with the desire to focus Policy and Scrutiny Committees, an option to reduce these to 5 Members (4 Majority Party and 1 Minority Party Member) is included for consideration.
- 3.5 The rules relating to proportionality require all seats on Committees (Policy and Scrutiny and all regulatory) to be taken into account. Accordingly the appendices setting out the options relating to the size of P&S Committees also include the remaining Council Committees.
- 3.6 Many of the changes required and highlighted as part of the review are matters for each Policy and Scrutiny Committee to implement as they see fit or by the Westminster Scrutiny Commission and sit outside of the remit of this report. The best practice is recommended for referral to the Commission and P&S Committees.

- 3.7 The Minority Party have been consulted. In summary they are supportive of the idea of more meetings of each Committee with some of these being dedicated to one issue to allow for detailed scrutiny. They would like one of the single sessions to be nominated by the Minority Party. The Minority Party wish the Policy and Scrutiny Committees to be constituted in such a way given the rules on proportionality as to allow two Minority party members to be appointed to each Committee. They believe that these arrangements should allow for a reduction in the number of Task Groups.

The Minority party remain concerned that their ability to “call in” an item is severely constrained by the number of Members required to trigger a call in. Majority party members have consistently taken a party line on call in matters when asked by Minority Party members for support.

Programme of Meetings

- 3.8 It is proposed that, going forward, the Policy and Scrutiny Committees will sit on a Monday which is not already scheduled for the Cabinet. A suggested programme of meetings will be prepared in consultation with the Chairmen of the new P&S Committees once appointed.
- 3.9 The programme of Council and Committee meetings currently operates on the basis that certain Committee, Cabinet or Council events take place if possible on same day of the week, as follows:

Monday: Cabinet (and informal Cabinet)
Tuesday: Planning Committees
Wednesday: Full Council
Thursday: Licensing Sub-Committees/Area Forums.

It is proposed that, going forward, the programme of meetings be prepared wherever possible, on the basis as set out above. However, in view of the significant number of changes to the existing programme of meetings, it is not proposed to do this until the programme of meetings for 2013/14 is submitted for consideration to the General Purposes Committee in November.

Standards

- 3.10 Section 30 of the Localism Act requires Members to notify the Monitoring Officer of any disclosable pecuniary interests of theirs or a spouse or civil partner they live with, within 28 days of taking office. Section 30 allows the Secretary of State to make regulations defining a disclosable pecuniary interest. At the time of writing, these regulations are still awaited. Once made it will become a statutory requirement to disclose the pecuniary interest. Once declared the interest will appear in the published register. The matter which requires consideration by the General Purposes Urgency Sub-Committee is the adoption of a related Standing Order. The City Council’s Standards Committee felt that Members and Co-opted Members, having declared a pecuniary interest, should be required to leave the room during the debate and

not take part in any related vote. Accordingly, a new Standing Order to reflect this is proposed.

- 3.11 Section 27 of the Act requires local authorities in England to ensure that its Members and co-opted members maintain high standards of conduct and requires them to adopt a Members Code of Conduct. At its meeting on 24th April 2012, the Standards Committee were asked to determine its view in respect of whether the Council should revise its existing Code of Conduct or adopt (and modify if necessary) a Code to replace its existing Code – specifically the model Code produced by the LGA; or the Code recently released by the DCLG.
- 3.12 The Standards Committee agreed that the Code provided by LGA, subject to some additions relating to the registration of Pecuniary Interests was more suitable. This Code is attached as Appendix H for information and the aforementioned additions, which refer to Prejudicial Interests and the Register of Members' Interests, are in bold. The specific requirements relating to the registration of interests, both those required by Statute and those which the Council requires should be reflected in the Code.
- 3.13 As set out in paragraph 3.10 above, Regulations defining disclosable pecuniary interests are still awaited and details relating to pecuniary interests cannot, therefore, be included in the draft Code of Conduct to make it complete and ready for adoption by the Council at its Annual Meeting. As such, the Committee is asked to recommend to the Council that a new Code of Conduct be adopted at the Extraordinary Council Meeting on 25th June, to allow for the necessary Regulations to be issued and incorporated. This will meet the 1st July implementation deadline.
- 3.14 The Act has abolished the requirement for English authorities to have a separate Standards Committee, but authorities must adopt their own 'arrangements' to deal with misconduct complaints and this will require a Committee or Sub-Committee of some kind. As such, the Standards Committee were asked to recommend one of the following two options:
- (a) A full and separate Standards Committee as is operated under current arrangements; or
 - (b) A Sub-Committee of, for example, the Audit & Performance Committee to deal with misconduct complaints.

The Standards Committee recommended that a separate Standards Committee be established and consist of sufficient members to allow for a separate panel of members to deal with appeal cases, according to the agreed process for determining breaches of the Members' Code of Conduct. The Committee is therefore asked to recommend to the Council that a new Standards Committee be established. The Committee will be subject to the requirements of Section 15 of the Local Government and Housing Act 1989 (proportionality) and a membership of 8 Members (6 Majority Party and 2 Minority Party Members) is therefore recommended.

- 3.15 The Standards Committee's views were also sought on the most suitable location for the functions contained within the Standards Committee's current terms of reference. It recommended that the Standards Committee's terms of reference remain largely the same, transferring the following function to the Audit & Performance Committee:

"To maintain an overview of the arrangements in place for maintaining High Ethical Standards throughout the Authority and in this context to receive a report annually from the Head of Legal and Democratic Services and the Chief Operating Officer".

Schedule 4 of the Localism Act 2011 has amended section 3A of the Local Government and Housing Act 1989 so that the Head of Paid Service is now responsible for the "granting and supervision of exemptions of posts from the political restrictions". This function of the Standards Committee is therefore reallocated to the Chief Executive.

- 3.16 The Committee is therefore asked to recommend that the Council adopt the new Standards Committee's terms of reference, attached as Appendix F, and that the function specified in paragraph 3.15 above be transferred to the Audit and Performance Committee and agreed by the Council at its Annual Meeting on 16th May 2012.
- 3.17 The Committee was previously informed that the Localism Act prohibits any person who within the last five years has been a Member, Co-opted Member or Officer of the City Council, from being appointed as the independent person who has the statutory role of giving views on any complaint about the conduct of a Member of the authority. This bar therefore rules out any existing members of the Council's current Standards Committee from appointment as the independent person. The recruitment process for a new independent person (or persons) is underway and a new independent person (or persons) will be recommended to the Council for appointment at its Annual Meeting. In view of the service provided by the existing Independent Members to the City Council, the Committee is asked to recommend that the Chief Executive write to each member on behalf of the Council, with a vote of thanks and a corporate gift as an expression of its gratitude.

Members Allowances

- 3.18 Currently the Members Allowances Scheme does not provide for a Special Responsibility Allowance to be paid to Vice-Chairmen of Policy and Scrutiny Committees or the Audit and Performance Committee. In view of the increase in duties it is proposed to add a special responsibility payment of £2,000 pa to each of these. The cost is more than off-set by the reduction in the number of special responsibility allowances currently paid to Policy and Scrutiny Chairmen.

Audit and Performance Committee

- 3.19 Changes are necessary to Terms of Reference of the Audit and Performance Committee as a result of the Localism Act 2011 and the Bribery Act 2010, in addition to the change detailed in paragraph 3.15 above, transferring the specified function regarding 'high ethical standards' from the Standards Committee. The proposed Terms of Reference is attached as Appendix E and the two other specific changes proposed are detailed below.
- 3.20 The guidance issued by the Ministry of Justice in respect of the Bribery Act 2010 suggests that Councils ensure that a Committee is responsible for the Council's compliance with the Act. As such, the following amendment to an existing function is proposed (amendment in bold):

*"To monitor Council policies on 'Raising Concerns at Work', the Council's complaints process and the Antifraud and Corruption Strategy; **specifically the effectiveness of arrangements in place to ensure the Council is compliant with the Bribery Act 2010**"*

- 3.21 It is also proposed that the current function detailed below be removed, in light of the fact that Section 38 (1) of the Localism Act 2011 requires the Council to produce a pay policy statement for the financial year 2012-2013 and each subsequent financial year setting out its policies relating to the remuneration of its Chief Officers, its lowest paid employees and the relationship between the pay of chief officers and its other employees:

"To consider an annual report of the Director of Human Resources dealing with remuneration trends in and across the public sector, insofar as they may affect the City Council's ability to either recruit or retain the staff it needs"

Financial Regulations – New Standing Order

- 3.22 The current Standing Order 48 which relates to Financial Regulations requires updating. The proposed changed standing order is as shown below:

48. Financial Regulations

- (1) All employees, the Cabinet, Cabinet Members, Committees and Sub-Committees of the City Council shall comply with Financial Regulations issued from time to time by the Chief Operating Officer.**
- (2) The Financial Regulations may be revised from time to time by the Chief Operating Officer provided that no such revision may affect the powers of the Cabinet, Cabinet Members, Committees or Sub-Committees without the approval of the Council on the recommendation of the Cabinet Member with responsibility for Finance.**

4. Legal Implications

- 4.1 The City Council is required to have at least one Committee responsible for Overview and Scrutiny functions. Also the Council has responsibility for the Overview and Scrutiny functions relating to Health, Crime and Disorder and flood prevention. It is for the City Council to determine how these matters are discharged within its Policy (Overview) and Scrutiny Committee structure.
- 4.2 As stated above, Members are required to disclose pecuniary interests as prescribed by the Secretary of State. The register of these interests and any others which the Council decides should be included in the published register which must also appear on the Council's website. At the time of writing these Regulations are still awaited. The new Standards regime comes into effect on 1st July 2012 and the Standards Committee has requested that the requirement to disclose pecuniary interests and the existing interests disclosure be considered when these Regulations are available, before determining what interests should be required to be disclosed by Members under the new Code.
- 4.4 The Council is entitled to amend its Members Allowances Scheme at any time. When doing so it must have regard to the recommendations of the Independent Remuneration Panel. Any changes to the Scheme must be agreed by the Full Council and be the subject of a notice in a local newspaper circulating in the local authority area.

5. Financial Implications

- 5.1 There are no financial implications.

6. Other Implications – None.

**If you have any queries about this Report or wish to inspect any of the Background Papers please contact Mick Steward: 7641 3134
Email: msteward@westminster.gov.uk**

BACKGROUND PAPERS: None.

APPENDICES:

- Appendix A:** Policy and Scrutiny Committees Consultation Summary
Appendix B: New Policy and Scrutiny Committees responsibilities
Appendix C: Operational Changes to P&S
Appendix D: Option 1 for Policy and Scrutiny Committees containing 9 Members
Appendix E: Option 2 for Policy and Scrutiny Committees containing 5 Members
Appendix F: Standards Committee Terms of Reference
Appendix G: Audit and Performance Committee Terms of Reference
Appendix H: Draft Members' Code of Conduct

KEY ISSUES RAISED WITHIN CONSULTATION RESPONSES

CREATING IMPACT:

Focus:

The consultation responses highlighted that in order to secure strong outcomes and impact – there needed to be a clear focus to the setting of agendas for scrutiny. For example, there was agreement around each meeting of P&S tackling around two issues per meeting to investigate issues more thoroughly. Papers solely outlining information were to be avoided and scrutiny of external organisations could take place in one session.

- **P&S committees should institute a limit to the number of items considered at each committee**
- **P&S committees should be able to receive any information or update papers electronically rather than at the committee**

Strategy:

All of the responses tended to agree that strategic consideration of the work programme was vital. Specifically that P&S should reflect their ***distance from service delivery*** and ensure that they cover ***strategic long-term issues***. The programme should reflect areas where in-depth scrutiny could have an impact on services, such as input into draft strategies, and identify timely priority areas and follow-up investigations.

- **P&S committees should ensure that work programmes reflect a *year-long* view and become more strategic.**

Promotion:

It was agreed that dissemination and awareness of committee work was also significant, in order to demonstrate the impact of P&S. Responses highlighted publishing reports of findings of the committees, raising the external profile of the function whilst advertising what has been achieved, as well as creating a database to keep people informed and regularly provide case-study scenarios of how scrutiny had an impact.

- **P&S committees should advertise their work more widely and circulate information to databases on outcomes.**

Evaluation:

Respondents agreed that evaluation of priorities was key to maximising the impact of the function. For example, providing mechanisms by which success can be judged and ensuring that no task group / committee could operate without a report / summary outlining findings, even if no formal recommendations flow from its work.

- **P&S committees should make formal recommendations on each major item where possible**
- **P&S committees should actively monitor recommendations (not just actions) and ensure implementation.**
- **P&S committees should evaluate their work by national standards / peer review**

ENGAGING THE PUBLIC:

Co-option:

There was strong agreement from all respondents about the value of co-option. Members of the public or stakeholder organisations could be co-opted to assist the scrutineers to provide '*reality checks*' and '*watch the watchers*;' co-option could allow the views of clinicians and patients to influence discussions, could allow service user involvement and even allow co-option of 'critical friends' from other global cities (electronically).

- **P&S committees should co-opt non-statutory, non-voting representatives onto each committee**

Area Forums:

There was some disagreement around the potential use of Area Forums as a scrutiny method. For example, some reported that Area Forums are a great way of interacting with the public but other groups did not think that Area Forums would be the right vehicle for increasing engagement as they are geographically-focused and not policy-focused. Engaging with Area Forums was noted a good idea but only if participants were informed beforehand of the P&S work under consideration.

Expert Witnesses:

There was an agreement on the value of expert witnesses providing support to the committee. It was suggested that the invitation of external witnesses to scrutiny meetings could be regularised, with witnesses invited to submit papers or statements in advance and asked to take part in debate. Some argued that it could occur on a case-by-case basis or establishing a panel of experts to be used and called-upon by the committees when appropriate.

- **P&S committees should take greater advantage of the local presence of academics, researchers and professionals and create 'panels of experts' to call upon.**

Primary and Secondary Research:

Respondents agreed that there should be more use of research. For example, more surveys or research could be undertaken by P&S and committees could more systematically review information already obtained from the public through the City Survey, complaints, compliments and local residents groups.

- **P&S committees should ensure that available research is used or data is collected independently, to assist investigations.**

STRUCTURE / 'CRITICAL FRIEND' CHALLENGE

Number of Members:

There was some agreement around reducing the number of Members on each committee. Councillors who responded generally agreed that there should be fewer Members on committees (a maximum of six or seven Members) and this would help provide focus and ensure engagement and interest on the committee's remit.

Number of Committees:

There was some consensus around having fewer committees, to help underpin a more focused approach. It was suggested that by reducing committees and widening their interest and frequency, it would be beneficial. However, there were some concerns noted that a reduced number of committees, meeting more often, would not increase the power of the challenge unless this resulted in a net gain in the amount of meeting time.

Frequency of Meetings and Reduced Agenda (Dynamic Committees):

The value of increasing the frequency of meetings and reducing the size of agendas to enable greater focus on items was acknowledged by respondents. It was thought that this could enable a focus on one or two issues per meeting and then the committee could investigate these issues more thoroughly. Bi-monthly meetings were reported to be more responsive as long as committees did not try and take on too many subjects to cover. An alternative structure which was suggested was that more informal meetings could be held e.g. a seminar format. There was also some agreement across respondents that four meetings a year was sufficient. However, it was reported that frequently there have been too many items on the agenda so the latter items are rushed. A member of the public considered that six regular meetings would lead to more effective and constructive, rather than captious, criticism

Single Member Studies / 'Rapporteurs':

Stakeholders, partners, councillors and Westminster officers highlighted innovative practice where committee members could be responsible for shadowing particular organisations or skill areas and where Members take on a formal role on behalf of the committee to carry out specific engagement (e.g. issue-based site visits and working with officers) which could be reported back to the committee.

- P&S committees should have **fewer Members** on **fewer committees**, which meet on a **more regular** basis
- P&S committees should allocate topics to Members of committees, for specialisation and reporting.

INDEPENDENCE / RESPONSIBILITY

Cabinet Presence at P&S:

Some respondents mentioned that executive members should be held to account at least once every three months (as currently), although one considered that Q&A sessions with Cabinet Member should be removed, at least from every meeting (or alternate meetings), to allow committees to focus immediately on the single or couple of main items. Members of the public considered that it was necessary to hold the executive to account either annually, twice a year or at each committee. Councillors recommended that Cabinet presence should be mandatory, with advance copies of activities provided. There was some concern about Cabinet Members having, at times, been scrutinised by Deputy Cabinet Members.

- **P&S committees should continue to have Cabinet Member Q&A sessions, at the discretion of each committee.**

Independence:

The main suggestion to enhance independence was to allow more co-option of non-members whilst a councillor also argued that the P&S process could be improved by appointing a number of opposition councillors to chair Policy and Scrutiny committees.

Tri-Borough:

There was some agreement on the value of a Tri-Borough P&S committee with the co-option of Tri-Borough partners. Others considered that since P&S evaluates the performance of services at the local authority level, then any services which are delivered at Tri-Borough level should also be subject to the same type of scrutiny and process at the host authority. There was a suggestion that Tri-Borough teams would need to respond to each borough scrutiny committee, as in the past, but where it makes sense to present an issue across the three boroughs, scrutiny committees may wish to work together. A member of the public considered that as Tri-Borough services are delivered across a wider area, there was an enhanced need for committees to scrutinise them proactively.

- **P&S committees should consider Tri-Borough scrutiny task groups, where it becomes necessary**

Risk Assessment and Management:

There was some agreement that risk management could be a P&S role. For example, it was suggested that the committees should request 'risk registers,' which could be presented at each meeting and reported against. However management of risk was also seen to be the responsibility of the respective executive arm of the local authority.

- **Each P&S committee should receive a risk register which can be reported against, whilst appreciating the role of the executive arm to manage overarching risks.**

Westminster Scrutiny Commission

Communications & Policy, Member Services, Government Relations,
Performance, Equalities, Pay Policy, Royal Parks Board.

Cllr Philippa Roe (LEADER)

Adult Services, Health & Premises Management (Statutory Health P&S)

Adult services, carers, Relations with NHS and clinical commissioning groups, mental health, adult disabilities, rough sleeping Public health agenda, licensing policy and enforcement, trading standards, pest/noise control services, residential and commercial environmental health, air pollution and air quality, residential and environmental health, Go Green, HWB

Cllr Rachael Robathan (Adults), Cllr Tony Devenish (Public Health and Premises)

Children, Community Services & Protection (Stat. CDRP P&S)

BSF and PCP, Children's health and commissioning, Looked After Children and care leavers, extended services, multi-agency protection arrangements, children at risk, early years, 14-19 entitlement, SEN/LDD, Interagency cooperation (Children's Trust), schools and education, interagency and education, play services, advice information and guidance, parenting and child poverty, Family Recovery, Community Protection (includes domestic violence, youth offending, Safer Westminster Partnership, CDRP, relations with the police) Sport and leisure, arts, libraries, civic engagement, neighbourhoods, ward budgets, voluntary and community sector including volunteering,

**Cllr Nicola Aiken (Children, Young People & Community Protection)
Cllr Lee Rowley (Community Services)**

Environment

Planning, London Local Authorities Act 2007, Building Control, Public Art, LDF, Biodiversity, CPOs (excluding Housing), Olympics, Trees and Tree Policy, Mayoralty, Major projects around Leicester Square, Piccadilly and Exhibition Road, Special Events, Emergency Planning, water management, community governance review, Street cleaning, street management (guardians/inspectors), roads and highway maintenance, street schemes, recycling, CCTV, public toilets, cemeteries and mortuaries, parks and open spaces and relations with fire authority, transportation commissioning, small transportation budget, highway capital projects, Public Realm Capital Projects, relations with TfL, transport, road safety, RTA duties, network management duty and relations with utilities providers, transportation policy, BIDs, SMEs, Business Support, Area Action Plans/West End, markets, civic streets and street trading commercial, tourism, adult education and skills, employment, training/apprenticeships, business rate policy, parking enforcement, parking policy

Cllr Ed Argar (City Management & Transport), Cllr Robert Davis (Built Environment), Cllr Daniel Astaire (Business)

Housing, Customer Services & Finance

Housing options, sale and purchasing of housing, CPOs, housing management and CityWest Homes, community build, housing renewal strategy and empty homes, corporate property, IT and ICT, capital and revenue budget framework and monitoring, revenue collection, benefits and benefits policy, internal audit, HR and treasury, legal, the Westminster Standard and customer services, corporate complaints, FOI, website, transformation including tri-borough, procurement, contract management & central commissioning, EU Financial Sanctions, Advice Services

**Cllr Jonathan Glanz (Housing and Property),
Cllr Melvyn Caplan (Finance & Customer Services)**

Operational Changes to P&S

The following list of suggested operational changes to P&S is additional to the constitutional changes (number of committees, frequency of committees, number of Members) suggested within the main report.

1. *Focused work programmes shaped around the selection of one or two in-depth issues at each meeting, with recommendations for action.*

Best practice, consultation responses from stakeholders, officers and the public and Members themselves suggest that Agendas need to be more focused around a few key issues in order for a subject to be considered appropriately and with sufficient depth. Long agenda create meetings which are forced to consider a large amount of information without having sufficient time to assess what is being presented for consideration. All of the consultation responses tended to agree that strategic consideration of the work programme was vital. Specifically that P&S should reflect their distance from service delivery and ensure that they cover strategic long-term issues. Programmes should reflect areas where in-depth scrutiny could have an impact on services, such as input into draft strategies, and identify timely priority areas and follow-up investigations. Furthermore, P&S reviews and investigations should outline key recommendations from their work and thus the evaluation of success would be on the basis of how exactly those recommendations improved public services or alleviated problems addressed.

2. *The introduction of ‘Rapporteurs’ (Chairman’s discretion)*

Highlighted in the consultation by Stakeholders, partners, councillors and officers, and within the reports to the Westminster Scrutiny Commission on best practice, the appointment of ‘scrutiny leads’ (*rapporteurs*) within committees would heighten Member engagement on their favoured topics and ensure the breadth of the committee’s remit is fully appreciated. Members would take on a formal role on behalf of the committee to carry out specific engagement (e.g. issue-based site visits and working with officers) which could then be reported back to the committee, if anything had arisen between meetings. This ‘*rapporteur-style*’ of working is currently enshrined within the council’s constitution.

3. *The co-option of non-statutory non-voting committee members (Chairman’s discretion)*

Non-statutory co-option is a route to engage the public, the voluntary and community sector and expert representatives onto scrutiny committees. There was strong agreement from all consultation respondents about the value of co-option. Members of the public or stakeholder organisations could be co-opted to assist the scrutineers to provide ‘*reality checks*’ and ‘*watch the watchers*’; co-option could allow the views of clinicians and patients to influence discussions, could allow service user involvement

An ODPM report on The Development of Overview and Scrutiny in Local Government (Snape et al., 2002, p. 93 -95) concluded that co-optees were typically representatives of organisations, although co-option of ordinary members of the public was not unknown. In principle, the practice of extending the membership to include co-optees was commended as it broadened the spectrum of involvement in the scrutiny process and makes the intrusion of overt party politics into scrutiny proceedings more difficult. However, co-option would only one method for engaging partners and the public and there would be times and specific committees where other methods would be more appropriate.

Currently at Westminster, only one committee (Children, Young People and Community Protection) has non-statutory, non-voting co-opted representatives (alongside statutory education representatives), where two local headteachers of maintained schools attend, contribute and bring a frontline perspective to Policy & Scrutiny. The most common non-statutory co-option is the co-opting of LINK members onto Health Overview and Scrutiny Committees. In this way, investigations and work conducted by the LINK are given a voice in the public arena and allow LINK a formal place in deliberations. With the move towards local Healthwatch organisations in April 2013, when Healthwatch will also have a place on the Health and Wellbeing Board, the Centre for Public Scrutiny considers that this practice of co-option onto health scrutiny will continue, in order to ensure that public engagement has two opportunities for input.

4. Expert witnesses (Chairman's discretion)

There was an agreement on the value of expert witnesses providing support to the committee. Westminster is uniquely placed, unlike the majority of local authorities, amongst some of the leading universities in the world, headquarters of industries, trade associations, interest groups and charities. Thus Westminster is ideally placed to bring experts and stakeholders to provide evidence to policy and scrutiny committees. In this way, policy and scrutiny committees become strongly evidence-based deliberative bodies which make recommendations on the basis of sound judgments from the latest research and evaluations of national experts. With a high-level of knowledgeable input into a committee's deliberations, the outputs could be even more robust and hard-hitting.

In practice, it was suggested that the invitation of external witnesses to scrutiny meetings could be regularised, with witnesses invited to submit papers or statements in advance and asked to take part in debate. Some argued that it could occur on a case-by-case basis or establishing a panel of experts to be used and called-upon by the committees when appropriate.

5. Risk assessment (Chairman's discretion)

There was some agreement in the consultation that risk management could be a P&S role. For example, it was suggested that the committees should request 'risk registers,' which could be presented at each meeting and reported against. However management of risk was also seen to be the responsibility of the respective executive arm of the local authority.

In terms of best practice, the most significant *new* role that P&S could take on is that of risk management. The LGiU (2011) reports that local government faces three pressures that will require them to collaborate more closely with communities. First, councils will need to do “*more for less*” as a result of decreased budgets and increased demand for services. Second, councils need to tackle challenges that cannot be resolved by government intervention alone. Third, councils will need to respond to rapid changes in government policy and legislation. Authorities will be required to collaborate with a number of partners to deliver services and this will have significant implications for the ways in which councils manage risk. The LGiU (2011) question whether existing approaches to risk management of partnerships and contracts would be sufficient.

Management of risk has tended to be officer driven. Elected members, however, do manage risk through overview and scrutiny and high-level risk monitoring. Corporate risk registers offer members the opportunity to keep an eye on risks as they emerge and scrutiny allows panel members to assess in more detail the risks inherent in a project.

The LGiU research found that, nationally, these O&S committees were not always effective in their management of risk because their role has been very much focused on monitoring risk, rather than shaping risk management decisions. P&S committees, therefore, could have a role in shaping the decisions about how risk is approached by the council. This is especially relevant since the push for more localism, as the responsibilities of locally elected representatives shift from a strategic role towards empowering local citizens and facilitating community engagement.

6. Ad-hoc Tri-Borough Task Groups (Chairman’s discretion)

In the consultation, there was some agreement on the value of a Tri-Borough P&S approach with the co-option of Tri-Borough partners. Others considered that since P&S evaluates the performance of services at the local authority level, then any services which are delivered at Tri-Borough level should also be subject to the same type of scrutiny and process at the host authority. There was a suggestion that Tri-Borough teams would need to respond to each borough’s scrutiny committees, as in the past, but *where it makes sense to present an issue across the three boroughs, scrutiny committees may wish to work together*. The easiest way to do this would be via Tri-Borough scrutiny task groups.

In terms of best practice, in relation to triborough working, the CfPS (2011) suggested that where authorities share some services - it would be essential for scrutiny to ask:

- Who is holding who to account?
- Are shared service / commissioning systems sufficiently robust in governance terms?
- How responsive are such arrangements to pressures for change and improvement?
- What are the implications both for democratic control and local influence (the latter being a significant theme in the context of the Big Society)?

APPENDIX D

Option 1 for Policy and Scrutiny Committees containing 9 Members each

Committee	Members	Con	Lab
Westminster Scrutiny Commission	5	4	1
Adult Services, Health & Premises P&S	9	7	2
Children & Community P&S	9	7	2
Environment P&S	9	7	2
Housing & Finance P&S	9	7	2
Audit and Performance	6	5	1
General Purposes	6	5	1
Planning and City Development	6	5	1
Superannuation	6	5	1
Standards	8	6	2
Totals:	73	58	15

Note:

1. The Licensing Committee sits outside of the rules relating to proportionality and is therefore not shown here.
2. The proportionalities reflect those of the City Council prior to the resignation of former Councillor Colin Barrow. In the event that the proportionalities of seats held at the Council changes as a result of the Hyde Park by-election a revised appendix will be tabled.

APPENDIX E

Option 2 for Policy and Scrutiny Committees containing 5 Members each

Committee	Members	Con	Lab
Westminster Scrutiny Commission	5	4	1
Adult Services, Health & Premises P&S	5	4	1
Children & Community P&S	5	4	1
Environment P&S	5	4	1
Housing & Finance P&S	5	4	1
Audit and Performance	6	5	1
General Purposes	6	5	1
Planning and City Development	6	5	1
Superannuation	6	5	1
Standards	8	6	2
Totals:	57	46	11

Note:

1. The Licensing Committee sits outside of the rules relating to proportionality and is therefore not shown here.

2. The proportionalities reflect those of the City Council prior to the resignation of former Councillor Colin Barrow. In the event that the proportionalities of seats held at the Council changes as a result of the Hyde Park by-election a revised appendix will be tabled.

Standards Committee Terms of Reference

CONSTITUTION

8 Members of the Council, 6 Majority Party Members and 2 Minority Party Member.

TERMS OF REFERENCE

- (1) To promote and maintain high standards of conduct by the Members and Co-opted Members of the City Council.
- (2) To advise the City Council on the adoption or revision of a Code of Conduct for Members.
- (3) Advising, training or arranging to train Members and Co-opted Members on matters relating to the City Council's Code of Conduct for Members.
- (4) To assist Members and Co-opted Members observe the City Council's Code of Conduct for Members.
- (5) To monitor the operation of Code of Conduct for Members.
- (6) Consider reports referred to the Committee by ethical standards officers or the Monitoring Officer of investigations into alleged breaches of the City Council's Code of Conduct for Members.
- (7) Where necessary, to conduct hearings into allegations of breaches of the said code, and interview officers, Members and others as required.
- (8) Determining whether allegations of breaches of the said code are made out and determining what action, if any, to take in relation hereto including, where it is determined that a breach has occurred, deciding what sanctions, if any, should be applied in relation to the Member or Member concerned (and for the avoidance of doubt, the Committee shall only have power to impose any sanction authorised by law).
- (9) Consider any complaints in respect of Members referred to the Committee under the City Council's "Whistleblowing" procedure and determining the action to be taken, if any.
- (10) To the extent allowed by the Law, granting dispensations in relation to Member and co-opted Member interests as referred to in the Members Code of Conduct.
- (11) To consider, advise and, if appropriate, take action upon other Member conduct issues not otherwise dealt with under these terms of reference.

Audit and Performance Committee Terms of Reference

CONSTITUTION

6 Members of the Council, 5 Majority Party Members and 1 Minority Party Member, but shall not include a Cabinet Member.

TERMS OF REFERENCE

Audit Activity

1. To consider the head of internal audit's annual report including the auditor's opinion on the Council's control environment and a summary of internal audit and anti-fraud activity and key findings.
2. To consider reports, at regular intervals, which summarise:
 - the performance of the Council's internal audit and anti fraud service provider/s
 - audits and investigations undertaken and key findings
 - progress with implementation of agreed recommendations
3. To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
4. To consider specific reports as agreed with the external auditor.
5. To comment on the scope and depth of external audit work and to ensure it gives value for money.
6. To liaise with the Audit Commission over the appointment of the Council's external auditor.
7. To comment on the proposed work plans of internal and external audit.

Regulatory Framework

8. To maintain an overview of the Council's Constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour.
9. To review any issue referred to it by the Chief Executive or a Director, or any Council body.
10. To monitor the effective development and operation of risk management and corporate governance in the Council.

11. To monitor Council policies on 'Raising Concerns at Work', the Council's complaints process and the Antifraud and Corruption Strategy; specifically the effectiveness of arrangements in place to ensure the Council is compliant with the Bribery Act 2010.
12. To oversee the production of the authority's Statement on Internal Control and to recommend its adoption.
13. To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.
14. To consider the Council's compliance with its own and other published standards and controls.
15. To maintain an overview of the arrangements in place for maintaining High Ethical Standards throughout the Authority and in this context to receive a report annually from the Head of Legal and Democratic Services and the Chief Operating Officer.

Accounts

16. To review the annual statement of accounts and approve these for publication. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
17. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

Performance Monitoring

18. To review and scrutinise the financial implications of external inspection reports relating to the City Council.
19. To receive the quarterly performance monitoring report and refer any issues which in the Committee's view require more detailed scrutiny to the relevant Policy and Scrutiny Committee.
20. To review and scrutinise personnel issues where they impact on the financial or operational performance of the Council including but not limited to agency costs, long-term sickness, ill health early retirements and vacancies; and
21. To review and scrutinise Stage 3 complaints made against the City Council and monitor progress.
22. To consider and advise upon, prior to tender, the most appropriate contractual arrangements where a proposed contract has been referred to the Committee by the Chief Executive.

23. To maintain an overview of overall contract performance on behalf of the Council.
24. To review and scrutinise contracts let by the Council for value for money and adherence to the Council's Procurement Code.
25. To review and scrutinise the Council's value for money to Council tax payers.
26. To scrutinise any item of expenditure that the Committee deems necessary in order to ensure probity and value for money.

Staffing

27. To advise the Cabinet Member for with responsibility for Finance on issues relating to the remuneration of all staff as necessary.
28. In the course of carrying out its duties in respect of 27 above, to have regard to the suitability and application of any grading or performance related pay schemes operated, or proposed, by the Council.

Draft Members' Code of Conduct

As a member or co-opted member of Westminster City Council I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in Westminster City Council this will be done as follows:

Members and Co-opted Members who have prejudicial interests, as defined by statutory Regulation are required, if it relates to a matter being considered at a Council, Committee or Sub-Committee, to declare the interest (whether or not it has been registered) and to withdraw from the meeting (including the room) and take no part in any associated vote. Members are also advised that this should apply in the case of prejudicial interests to any Party Group meeting or meeting with Officers.

Details of prejudicial interests will be recorded in the minutes of the relevant meeting and the Register of Interest of the Member or Co-opted Member.

Members and Co-opted Members are required by virtue of their membership of the City Council, or in the case of Co-opted Members Committee or Sub-Committee of the City Council, within 28 days to notify the Monitoring Officer, or his/her representative, of those matters to be included in the Register of Members Interests, in accordance with the requirements of the City Council.

As a Member of Westminster City Council my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the City Council or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.

- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.