

Overview and Scrutiny Committee

Monday, 17 December 2018 at 2.00 pm

Meeting to be held in a Committee Room, Civic Centre, Newcastle, NE1 8QH

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SUPPLEMENTAL AGENDA

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Subject: Overview of NTCA's Scrutiny Arrangements

Report by: Interim Monitoring Officer

Report Summary

This report sets out the scrutiny arrangements in respect of the North of Tyne Combined Authority (NTCA).

Recommendations

The Committee is recommended to note the contents of this report.

1 Background Information

- 1.1 Effective scrutiny arrangements are an essential component of local democracy, enhancing accountability and transparency of decision making and enabling local councillors to represent the views of their constituents.
- 1.2 The basic principles relating to NTCA scrutiny arrangements are set out in the order which created NTCA and also in the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017. These principles are further developed in the following parts of NTCA's Constitution:
 - Part 2.6 – which sets out the functions of the Overview and Scrutiny Committee (OSC) - see Appendix 1 to this report; and
 - Part 3.3 – which sets out the Scrutiny Procedure Rules - see Appendix 2.

The whole constitution and the order which created NTCA can be found at:

<https://www.northoftynedevelopment.com/order-and-constitution/>

2 Key aspects of the Scrutiny Arrangements

- 2.1 The order which created NTCA provides that the **Chair** of the OSC must be an appropriate person which means that the Chair shall be one of the members of the

Committee appointed by the constituent councils and, where the Interim/Elected mayor is a member of a registered political party, the Chair may not be a member of the same party.

- 2.2 Whilst NTCA's Constitution provides that the appointment of the Chair and Vice Chair of the OSC are matters for the Cabinet, the Cabinet agreed on 4 December to delegate these decisions to the Committee, subject, of course, to the statutory requirement set out in paragraph 2.1 above.
- 2.3 The order which created NTCA also provided that the **quorum** of the OSC is at least 2/3 of the members of the Committee (ie 6 members). As members will be aware, NTCA's constitution provides for the appointment of substitute members to minimise the risk that meetings are inquorate.
- 2.4 The **terms of reference** of the Committee are set out at para 5 of the functions of the Committee at Appendix 1. These are supplemented by the **objectives and key principles** at paragraph 2 of the Procedure Rules at Appendix 2. The Procedure Rules also deal with the scope of the Committee to make **reports or recommendations to the Cabinet or the Elected Mayor**, and also the scope to "**call in**" decisions of the Cabinet, Elected Mayor and officers.
- 2.5 As set out in paragraph 4 of the Scrutiny Procedure Rules, the Committee has a specific role in the formulation of **NTCA's budget** in that the Committee will consider the budget proposals prepared by the Cabinet. It should be noted that, due to the fact that NTCA was only created in November, the budget timetable for 19/20 is necessarily compressed. It is anticipated that the Cabinet will approve initial budget proposals for 19/20 at its meeting on 5 February and these will be considered by this Committee at a meeting in February before the final budget is approved by the Cabinet at its meeting on 12 March.
- 2.6 Lastly, Members will be aware that, in accordance with the order, a Joint Transport Committee has been established between NTCA and NECA in order that those transport functions of both combined authorities which are specified in the order may be exercised jointly. As part of those arrangements, the order also established a **Joint Overview and Scrutiny Committee** which is responsible for scrutiny functions in respect of the Joint Transport Committee.

3 Potential Impact on Objectives

- 3.1 The Overview and Scrutiny Committee has a key role in the policy development of NTCA.

4 Key Risks

- 4.1 None.

5 Financial and Other Resources Implications

5.1 There are no specific financial implications arising from this report.

6 Legal Implications

6.1 These are dealt with in the body of this report.

7 Consultation/Engagement

7.1 This report is an summary of the constitutional arrangements relating to Overview and Scrutiny Committee and therefore has not been subject to consultation.

8 Appendices

Appendix 1: Functions of the Overview and Scrutiny Committee

Appendix 2: Overview and Scrutiny Procedure Rules

9 Background Papers

NTCA's Constitution

10 Contact Officers

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Appendix 1:

Part 2.6 of NTCA's Constitution - Overview and Scrutiny Committee

1. Overview

- 1.1 Effective scrutiny arrangements are an essential component of local democracy, enhancing accountability and transparency of decision making and enabling local councillors to represent the views of their constituents. These arrangements have been established to enable local councillors, on behalf of their communities, to scrutinise and challenge the Cabinet and the Mayor and to consider matters of strategic importance to residents within the North of Tyne area with a view to influencing their decisions.

2. Membership

- 2.1 The Cabinet shall appoint an Overview and Scrutiny Committee which shall consist of 3 members of each of the constituent councils (who are not Cabinet Members or Substitute Members of NTCA) in such a manner that the members of the Overview and Scrutiny Committee taken as a whole reflect, so far as reasonably practicable, the balance of political parties for the time being prevailing among members of the constituent councils when taken together;
- 2.2 The Cabinet shall also appoint as substitute members (for those mentioned in paragraph 2.1 above) 3 members of each of the constituent councils (who are not Cabinet Members or Substitute Members of NTCA) in such a manner that the members of the Overview and Scrutiny Committee taken as a whole reflect, so far as reasonably practicable, the balance of political parties for the time being prevailing among members of the constituent councils when taken together.
- 2.3 Substitute members of the Committee may attend the meetings of the Committee to act in the place of an ordinary member of Committee appointed under paragraph 2.1.

3. Quorum

- 3.1 No business of the Committee shall be transacted unless two-thirds of the members are present.

4. Chair

- 4.1 The Chair of the Committee will be an "Appropriate Person" (as defined in the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017) which means that the Chair shall be a member of one of the constituent councils appointed under paragraph 2.1 above and:
- 4.1.1 (where the Mayor is a member of a registered political party) the Chair may not be a member of the same registered political party; or

4.1.2 (where the Mayor is not a member of a registered political party) the Chair may not be a member of the political party with the most members of the constituent councils taken together.

4.2 The Chair of the Committee shall be appointed annually by the Cabinet at its Annual Meeting.

5. Terms of reference

5.1 The Overview and Scrutiny Committee can:

5.1.1 Review or scrutinise decisions made, or other actions taken, by the Cabinet or the Mayor in connection with the discharge of any functions which are the Cabinet's or the Mayor's responsibility. (In exercising this function, the Committee may also direct that a decision is not to be implemented whilst it is under review or scrutiny and, furthermore, to recommend that the decision be reconsidered – this is referred to in this Constitution as “call-in”.)

5.1.2 Make reports or recommendations to the Cabinet or the Mayor (as appropriate) with respect to the discharge of their functions or on matters of strategic importance that affect the North of Tyne area or inhabitants.

5.1.3 Review the performance of the Cabinet and Mayor against objectives within their strategies and policies.

5.1.4 Facilitate the exchange of information about the work of the Cabinet and the Mayor and share information and outcomes from reviews.

6. Overview and Scrutiny Procedure Rules

6.1 In carrying out its role the Committee shall at all times comply with the Overview and Scrutiny Procedure Rules at Part 3.3 of this Constitution and shall, in particular, be mindful of the key principles of scrutiny set out therein.

7. Delegation

7.1 The Overview and Scrutiny Committee may establish such subcommittees, panels and ad-hoc working groups as it considers necessary to assist it and will do so at the annual meeting of the Overview and Scrutiny Committee.

Appendix 2

Part 3.3 of NTCA's Constitution – Overview and Scrutiny Procedure Rules

1. Introduction

1.1 These rules of procedure provide a framework for carrying out the overview and scrutiny work of the Authority.

2. Objectives and key principles of scrutiny of the Authority

2.1 The Authority has established an Overview and Scrutiny Committee (“the Committee”) in accordance with the relevant legislation and the Authority’s Constitution in order to scrutinise and support the decision-making of the Cabinet and the Mayor and other decision-making bodies and officers within the Authority.

2.2 The terms of reference of the Committee are set out in paragraph 5 of Part 2.6 of this Constitution.

2.3 The Committee shall be responsible for determining their own work programme, having taken advice from relevant officers. When considering their work programme, they shall:

- determine whether an issue is more appropriately dealt with by one of the constituent councils or by some other organisation or in some other way and will not duplicate the work of existing bodies or agencies;
- take into account the resources available to support that programme, and avoid establishing priorities for which the costs exceed the likely benefits;
- avoid initiating enquiries at a time, or in a manner which disrupts the effective and efficient operation of the Authority, or unnecessarily delays the conduct of its business.

2.4 The scrutiny process will be open and transparent and designed to engage all relevant organisations, residents and other stakeholders.

2.5 The terms of reference, timescale and outline of any review shall be agreed by the Committee.

2.6 Different approaches to scrutiny reviews may be taken in each case, but Members shall seek to act in an inclusive manner and take evidence from a wide range of opinion. The Committee shall make specific efforts to engage with groups who would otherwise be excluded.

2.7 The Committee may also establish subcommittees and temporary working groups to consider specific issues in more depth and to report back to the Committee. Working groups cannot however receive delegated authority from the Committee, who retain responsibility for all decisions.

3. Meetings of the Committee

3.1 The Committee shall hold at least four meetings per year and may convene additional meetings as necessary, taking account of the considerations set out above.

3.2 Notice of the annual meeting and any other meetings will be sent to each Member of the Committee in accordance with the requirements of the Local Government Act 1972.

3.3 Meetings will be held in public, unless the meeting decides to convene in private in order to discuss confidential or exempt information, in accordance with the relevant provisions of the Local Government Act 1972.

3.4 The Committee, acting reasonably, may:

- request the members or statutory officers of the Authority (including the Interim Mayor or Mayor) to attend before it to answer questions and give evidence; and
- invite such other persons, including officers of the constituent councils, to attend meetings of the Committee.

3.5 Any invitation to officers under paragraph 3.4 must be made through the Head of Paid Service of the Authority, or the Chief Executive of the relevant constituent council. If any request is declined by the Head of Paid Service or Chief Executive, he/she must indicate the reasons for so doing.

4. Functions of the Committee regarding the Authority's Budget

4.1 At least 2 months before the calculations for the transport levies need to be finalised Cabinet will produce initial outline budget proposals for consultation.

4.2 The initial outline budget proposals will be provided to the Committee together with a summary of the information taken into account in producing the initial outline proposal. A timetable for the consultation on, and preparation of, final draft budget proposals, including consideration of the final budget proposals by the Committee as part of the consultation process, will be made known to the Committee.

4.3 The Committee will consider the final draft budget proposals at a Committee meeting and shall ensure that the outcome of the meeting in terms of the Committee's consideration of the final draft budget proposals will be made known to Cabinet before the end of the consultation period.

5. Agendas and Business of the Committee

- 5.1 The Chair will approve the agenda for each annual meeting and any other meetings to be held.
- 5.2 Any member of the Committee may raise with the Chair a matter which is relevant to the functions of the Committee, for consideration by the Committee.
- 5.3 Any member of the Authority or of a constituent council may also raise with the Chair an item which is relevant to the functions of the Committee, for the Committee's consideration.
- 5.4 In considering whether or not to exercise any of the powers specified in the Terms of Reference of the Committee (at paragraph 5 of Part 2.6 of this Constitution) in relation to a matter referred to it by a member of the Authority or a member of a constituent council in accordance with the agreed arrangements regarding the exercise of those powers, the Committee must have regard to any representations made as to why it would be appropriate for the Committee to exercise any of those powers.
- 5.5 If the Committee decides not to exercise any of those powers in relation to the matter, it must notify the relevant member of its decision and the reasons for the decision.
- 5.6 The Committee must also provide the relevant Member with a copy of any report or recommendations which the Committee makes regarding the exercise of its powers in connection with the matter referred to it by the Member(s) concerned, subject to the provisions of paragraph 6.5 (confidential and exempt information).

6. Reports or Recommendations of the Committee

- 6.1 Where the Committee makes a report or recommendations, the Committee may:
 - publish the report or recommendations;
 - by notice require the Cabinet or Mayor to:
 - consider the report or recommendations;
 - respond to the Committee indicating what (if any) action the Cabinet or Mayor proposes to take; and
 - (if the Committee has published the report or recommendations), publish the response.
- 6.2 Notice given under the preceding paragraph 6.1 must require the Cabinet or Mayor to comply with it within two months beginning with the date on which the Cabinet or the Mayor received the report or recommendations or (if later) the notice.
- 6.3 The Cabinet or the Mayor must respond to a report or recommendations made by the Committee as a result of a referral made in accordance with these Rules, within two months beginning with the date on which the Cabinet or the Mayor received the report or recommendations or (if later) the notice.
- 6.4 When publishing any document comprising such report or recommendations, or a response of the Cabinet or the Mayor to the report or recommendations, the

Committee must exclude any confidential information, and may exclude any relevant exempt information.

- 6.5 When the Committee provides a copy of any such documents to a Member of the Authority, or to a Member of a constituent council, the Committee may exclude any confidential information or relevant exempt information.
- 6.6 Where the Committee excludes information under the preceding paragraphs, the Committee in publishing or providing a copy of the document may replace so much of the document as disclose the information, with a summary which does not disclose that information, and must do so if, in consequence of excluding the information the document published, or the copy provided, would be misleading or not reasonably comprehensible.
- 6.7 Notwithstanding that the Committee, in publishing or providing a copy of a report or recommendations, has excluded information, or has replaced part of a report or the recommendations with a summary, it is nevertheless to be taken to have published the report or recommendations.
- 6.8 “Confidential information” has the meaning given by section 100A (3) of the Local Government Act 1972.
- 6.9 “Exempt information” has the meaning given by section 100I of the 1972 Act.
- 6.10 “Relevant exempt information” means:
- In relation to a report or recommendations of the Committee, exempt information of a description specified in a resolution of the Committee under section 100A(4) of the 1972 Act which applied to the proceedings, or part of the proceedings of the Committee at which the report was, or the recommendations were, considered; and
 - In relation to a response of the Cabinet or the Mayor, exempt information of a description specified in such a resolution of the Cabinet or Mayor which applied to the proceedings, or part of the proceedings, at any meeting of the Cabinet at which the report or response was, or the recommendations were, considered.

7. Rights of Committee Members to documents

- 7.1 A member of the Committee is entitled to a copy of any document which is in the possession or under the control of the Cabinet or the Mayor, and contains material relating to any business that has been transacted at a meeting of a decision-making body of the Authority, or to any decision that has been made by an individual Member of the Authority.
- 7.2 Where a member of the Committee requests a document which falls within the preceding paragraph 7.1, the Cabinet or the Mayor must provide that document as soon as reasonably practicable, and in any case no later than 10 clear days after the Cabinet or the Mayor receives the request.

7.3 However, no member of the Overview and Scrutiny Committee is entitled to a copy of any such document or part of a document as contains exempt or confidential information unless that information is relevant to:

- an action or decision that the Member is reviewing or scrutinising; or
- any review contained in any programme of work of the Committee or of a working group of the Committee.

7.4 Where, as a result, the Cabinet or the Mayor, or the Head of Paid Service determines that a member of the Committee is not entitled to a copy of a document or part of any such document for a reason set out in the preceding paragraph 7.3, he, she or they must provide the Committee with a written statement setting out its reasons for that decision.

8. Call-In Procedure

8.1 The power of the Committee to call-in decisions for review and scrutiny is intended to apply in exceptional circumstances and it cannot be used in respect of day-to-day management and operational decisions.

8.2 In exercising this power, members of the Committee will need to determine that a decision of the Authority has been made:

- in a manner which is inconsistent with the Constitution and procedures of the Authority;
- without adequate consultation with relevant parties;
- without adequate evidence to inform that decision, or with inaccurate or misleading evidence; and/or
- without sufficient regard to the financial or other impacts of the decision or the risks arising from the decision;

8.3 All decisions made by the Mayor, Cabinet, decisions delegated to Sub-Committees, and all officer key decisions shall be published within 3 working days of being made. Committee members will be sent copies of the records of all such decisions by the person responsible for publishing the decision. The notice will bear the date on which it is published and will specify that (subject to paragraph 8.10 below) the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless the Committee directs that it should be called-in.

8.4 During this period the Monitoring Officer shall call-in a decision for scrutiny by the Committee:

- a. if so requested by any 4 Members of the Committee who are drawn from at least 2 of the constituent councils; and
- b. if the criteria in paragraph 8.2 have been met,

in which event the Monitoring Officer shall then notify the decision-maker of the call-in. The Monitoring Officer shall call a meeting of the Committee on such date as he/she may determine, where possible after consultation with the Chair of the

Committee, and in any case within a period not exceeding 10 days of the decision to call-in unless there are exceptional circumstances as to why this cannot be achieved. The Monitoring Officer, in consultation with the Chair of the Committee, will determine if there are exceptional circumstances.

- 8.5 The written request for call-in of a decision should always include specific details clearly explaining why the Members making the request consider that a decision has been taken in one or more of the circumstances set out in paragraph 8.2 identifying which circumstances apply, and describing the reasons which the Members have for believing that this is the case. Wherever possible, the request shall also indicate whether the Members wish to request persons to attend the Committee's meeting under paragraph 3.4 above. The Monitoring Officer will provide a form for completion by the Members making the call-in request, to ensure the proper application of the call-in procedure.
- 8.6 On receipt of a valid call-in request, the Committee meeting to review the decision shall follow the following format:
- the Members requesting the call-in will explain the reasons for calling-in the decision;
 - other Members of the Committee may ask questions or seek clarification on the reasons for call-in;
 - the (representative of the) decision maker and/or supporting officer(s) will explain the reasons for the decision being made and respond to any issues raised by the call-in;
 - Members of the Committee may ask questions or seek clarification; and
 - the Committee will then deliberate and come to a decision.

Timings for each element of the meeting may be determined by the Chair, in order to ensure the efficient conduct of the meeting.

- 8.7 The Committee may, by majority decision, take one of the following steps:
- a. agree that the original decision should stand, no further action should be taken and the decision can be implemented without further delay;
 - b. agree that the original decision should stand, but make comments on the decision;
 - c. agree that the original decision should be referred back to the decision-maker with a recommendation it be reconsidered, providing a statement of the reasons for the referral;
 - d. (where the decision was made under delegated arrangements) agree that the original decision should be referred to the Cabinet or Mayor (as appropriate) with a recommendation that it be reconsidered, providing a statement of the reasons for the referral;
 - e. agree to adjourn the meeting for further consideration (the meeting can only be adjourned once).

8.8 If following a valid call-in, a quorate meeting of the Committee is not held within 10 days (unless there are exceptional circumstances for holding the meeting at a later date as set out in paragraph 8.4 above), or does meet but does not refer the matter back to the decision-maker or the Cabinet (as appropriate), the decision shall take effect on the sooner of the date of the Committee meeting or the 10 day period.

8.9 If the matter is referred to the Cabinet, the Cabinet shall meet within 10 days of the request, unless there are exceptional circumstances as to why this cannot happen, to reconsider the matter. Following the meeting the Cabinet shall respond to the Committee indicating what, if any, action the Cabinet proposes to take.

8.10 The call-in procedure set out above shall not apply where an urgent decision needs to be made. An urgent decision is one that needs to be implemented before the call-in period, to avoid a risk of serious prejudice to the interests of the Authority. In these circumstances:

- The Head of Paid Service shall determine whether a risk of serious prejudice exists. In the event that the Head of Paid Service is the decision-maker, this assessment shall be confirmed by the Monitoring Officer;
- The Head of Paid Service must secure the agreement of the decision-maker, and the Chair of the Committee.
- The decision shall be communicated to the Committee in advance of implementation
- The fact that a decision is exempt from call-in shall be recorded alongside the decision itself.

8.11 The operation of the provisions relating to call-in and urgency shall also be monitored and reviewed annually.

8.12 Each decision can only be called in once.

Subject: Future Work Programme of the Overview and Scrutiny Committee

Report by: Interim Monitoring Officer

Report Summary

This report invites the Committee to agree the procedure for determining its work programme for the municipal year 2018/19.

Recommendations

The Committee is recommended to consider the contents of this report and agree the procedure for determining its work programme.

1 Background Information and proposals

- 1.1 As Members will be aware, NTCA was established in order to deliver the devolution deal agreed with central government. Following its creation on 2 November 2018, NTCA's Cabinet has met on two occasions.
- 1.2 At its first meeting on 8 November 2018, the Cabinet agreed the allocation of portfolios to Cabinet Members, and approved the Authority's Vision and Emerging Priorities for Early Investment. At its second meeting on 4 December, the Cabinet appointed an Interim Mayor, and approved the Authority's Inclusive Economy Policy Statement as well as the process for establishing the Inclusive Economy Board. The Cabinet also agreed the Authority's Budget for 2018/19. As noted in the previous report on the agenda, it is envisaged that the draft proposals for the 2019/20 budget will be considered by this Committee at its next meeting.
- 1.3 The Committee will have an important role in assisting NTCA in the development, implementation and review of its plans and strategies. It is therefore important that the Committee establishes a clear work programme and it is proposed that this is

developed by the Committee in consultation with Cabinet members and relevant officers.

2 Potential Impact on Objectives

2.1 The formulation of a work programme will ensure that the Committee can properly discharge its functions and play a full role in the policy development of NTCA.

3 Key Risks

3.1 None.

4 Financial and Other Resources Implications

4.1 There are no specific financial implications arising from this report.

5 Legal Implications

5.1 There are no specific legal implications arising from this report.

6 Consultation/Engagement

6.1 As set out above, it is proposed that the Committee's work programme is developed in consultation with Cabinet members and relevant officers.

7 Appendices

7.1 None.

8 Background Papers

8.1 None.

9 Contact Officer

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