

Report of the Interim Chief Executive

ITEM 7.5 SCRUTINY REVIEW

Purpose of Report

To consider revising the Council's current scrutiny structure and scrutiny arrangements.

Recommendations

1. That the new scrutiny structure described in the report and in Appendix 2, be approved and be implemented from July 2010;
2. That appointments be made to the Scrutiny Management Board and Overview Scrutiny Group;
3. Delegated authority be given to the Chief Executive to appoint to other scrutiny groups outlined in the report; and
4. That a report proposing the detailed constitutional changes required to implement the new scrutiny structure and to confirm appointments to the new scrutiny bodies be submitted to Council on 13th September 2010.

Reasons

Following the introduction of new legislation and comments made by external agencies on the Council's current scrutiny structure, to review existing arrangements and propose a new structure and working arrangements.

Background

Charnwood's scrutiny arrangements have been in place since 2000 and some changes to these were made in 2004. For the last 2 years, it has been anticipated that there would need to be a review of the Council's scrutiny arrangements once advice and regulations were received in relation to the Local Government and Public Involvement in Health Act 2007.

Along with the need to modernise because of the new Act, a number of external drivers are now encouraging the Council to review its scrutiny structure and arrangements:-

Charnwood's IDeA Peer Review 2008

“The scrutiny function needs development and support.....the committees are calling officers to account rather than Lead Members. The accountability of Lead Members is diminishing and there is an over-reliance on officers. We would recommend that this is addressed. The scrutiny function could be developed to include policy development, but this will require officer support which, from our observations and discussions is very limited at the present time”.

Audit Commission – Charnwood's Use of Resources Assessment 2009

“Scrutiny is getting better, but there is little evidence of where it has made a difference. There are effective risk management processes in place, although scrutiny arrangements have so far had limited impact on services”.

Centre for Public Scrutiny (CfPS) – 2010

“Public scrutiny is now moving into another era with community-led scrutiny of local decisions. This is where the public’s involvement in challenging local authorities and public service providers on public service improvement and delivery is actively sought by elected representatives (such as MPs or councillors) or appointed non-executives on governing bodies (such as school governors or non-executive directors of hospital trusts). Constructive and ongoing engagement with stakeholders, from experts to the general public, helps to achieve genuine accountability for the use of public resources”.

The Leader of the Council has therefore commissioned a Review of Scrutiny.

Consultation

As part of the review, it has been important for councillors to be able to identify and voice current issues relating to scrutiny at Charnwood and be able to influence and shape any potential change. Initially, members of the Scrutiny Commission put forward their views and these were carried forward for consideration. Similarly, Cabinet was asked for its views prior to a Scrutiny Away Day.

Scrutiny Away Day

The Scrutiny Away Day has held on Saturday 20th March at Beaumanor Hall. This was open to all councillors to attend and be involved in shaping the Council’s scrutiny structure and arrangements for the future. 28 councillors attended,

including all Group Leaders. The session was facilitated by the Improvement and Development Agency (IDeA) and involved 2 member peers from other local authorities (one Conservative, the other Labour) who were experienced in the field of scrutiny. The objectives of the session were to help consider how to ensure:-

- Charnwood's scrutiny function is fit for purpose to undertake the roles and functions expected of a modern council, drawing on practice from other places
- the scrutiny function effectively informs and shapes key decisions and policy, enabling better outcomes for local people
- members are confident and empowered to undertake their responsibilities and can take the council's agenda forward and have the ability to make a more positive contribution

The outcome of the Away Day was very positive and there was discussion about what the Council did well and what it might need to improve upon.

Following the Away Day, the IDeA produced a summary of the session and a copy of this has been sent to each councillor. The first part of the summary gathers the points made by individual members during the morning session and does not attempt to analyse, triangulate or justify any of the points made. The second part of the summary report outlines the IDeA's suggested areas for improvement and these have helped inform a plan and revised scrutiny structure for Charnwood.

The Leader of the Council is keen to maintain the momentum on this and it is therefore suggested that that the Council should consider the proposals and new structure as soon as possible with a view to implementing the new arrangements from the beginning of July.

Areas for Improvement

From the discussion at the Away Day, the IDeA report suggested 3 key areas for improvement at Charnwood:-

1. The Council needs to further develop the organisational understanding and culture of overview and scrutiny;
2. The Council needs to introduce a more systematic and inclusive process for developing the scrutiny work programme; and
3. The Council should further develop how members are supported, enabled and empowered to undertake effective overview and scrutiny.

The IDeA suggested a number of actions which might assist the Council in achieving these areas for improvement. These are outlined in Appendix I together with how we propose to implement them.

The New Structure and way of working

The suggested revised structure of Scrutiny at Charnwood is attached as Appendix 2.

The key reasoning behind this structure is to

- Divide the two active parts of scrutiny, the policy development side and the holding of the Executive to account so that they are distinctive from one another;
- Promote scrutiny's role in policy development (which some say has been underutilised at Charnwood) through joint programming with Cabinet and access to Cabinet's Forward Programme;
- Help de-politicise scrutiny by removing, in most cases, political balance arrangements;
- Make scrutiny more rewarding for councillors by giving them an option as to which Groups and Panels they wish to serve on, depending on their interests;
- Quicken up the action taken as a result of a Scrutiny Panel review (see details below);
- Open up the opportunity to scrutinise externally as well as internally through the scrutiny of outside bodies and Area Forums;
- Ensure there is a greater understanding of overview and scrutiny and its role across the Council and that the whole organisation is more aware and supportive of the scrutiny work programme; and
- Better support the key relationships required for effective overview and scrutiny.

The new scrutiny structure features the following Groups/Panels:-

Cabinet/Scrutiny Liaison Group

The Cabinet/Scrutiny Liaison Group is, in effect, a joint meeting between members representing the Scrutiny Management Board and Cabinet. It will consist of 3 members of the Cabinet and 3 members of the Scrutiny Management Board and will involve the Chief Executive and/or Directors so that the whole organisation informs the scrutiny work programme. The aim will be for the Group to meet at the beginning of every Municipal Year to discuss the development of a Scrutiny

Programme for the year. To assist in this, scrutiny will have, for the first time, access to the Cabinet's Forward Programme. The Liaison Group will meet twice more during the year to review progress and to add to or delete items from the Scrutiny Programme. At its first meeting in July 2010, it will also have to consider what should happen to Scrutiny Reviews that have been programmed by current scrutiny committees but not yet started, or those that have commenced. Another important role of the Cabinet/Scrutiny Liaison Group will be to address, and attempt to resolve, any major differences between Scrutiny and Cabinet so that the Council can be more cohesive. It should also have a role in reviewing the effectiveness and ongoing improvement/development of the scrutiny function.

Scrutiny Management Board

This replaces the current Scrutiny Commission and will consist of 7 members, politically balanced on the basis of 4:2:1. The 7 members will consist of 4 "Commissioners" and 3 "Assistant Commissioners". One will Chair the Board and the remaining three Commissioners will chair the Policy Scrutiny Group, Overview Scrutiny Group, the Performance Panel and any of the Scrutiny Panels that are established. The Assistant Commissioners will act as Vice-Chairs of the Scrutiny Management Board, Policy Scrutiny Group, and Overview Scrutiny Group. The 3 main functions of the Board are to:-

- (a) lead and own the development of the Scrutiny Work Programme suggested by the Cabinet/Scrutiny Liaison Group and co-ordinate scrutiny generally;
- (b) consider review reports from Scrutiny Panels before they are referred to Cabinet; and
- (c) consider requests for additional scrutiny reviews from Scrutiny Groups, deal with Call-Ins, Councillor Calls for Action and act as the Council's Crime and Disorder Committee (but may delegate that area to the Policy Scrutiny Group or the Overview Scrutiny Group).

Cabinet Lead Members and senior officers can be called to give evidence before the Board on any item on the agenda. It is proposed that the Board meets every 6 weeks.

Overview Scrutiny Group

This Group will have 7 non-Cabinet members and will be politically balanced on the basis of 4:2:1. It will be chaired by a Commissioner. As the Group will be meeting prior to Cabinet, its main function will be to consider items and proposals on the Cabinet agenda. However, it will also have the remit to hold the Council to account as well as Area Forums and external bodies (as recommended nationally, this might open up opportunities to scrutinise bodies such as the Primary Care Trust and the

Local Strategic Partnership). The Overview Scrutiny Group can initiate a scrutiny review, although this would have to be agreed by the Scrutiny Management Board. It is expected that Cabinet Lead Members and senior officers called to give evidence before the Overview Scrutiny Group will do so in the same way as for the Scrutiny Management Board. The Overview Scrutiny Group will meet every 4 weeks prior to Cabinet meetings.

Policy Scrutiny Group

This Group will be different in that it will have a minimum of 3 non-Cabinet members and no maximum and will not be politically balanced. This Group will be chaired by a Commissioner and its main function is to put into action the scrutiny reviews under the Scrutiny Programme by determining the scope, terms of reference, timing and method of each review. It will also monitor progress of reviews and can request the Scrutiny Management Board to approve additional reviews. The Group should help ensure that scrutiny looks at the right things at the right time and scrutiny is positioned to make a timely contribution to key decision-making and policy development. It is expected that Cabinet Lead Members and senior officers called to give evidence before the Policy Scrutiny Committee will do so in the same way as for the Scrutiny Management Board. The Policy Scrutiny Group will meet every 6 weeks.

Scrutiny Panels

These are task and finish Panels and will have a minimum of 3 members and no maximum and will not be politically balanced. They will be chaired by a Commissioner and will operate in a similar way to that currently, however, their work will be determined by the Scrutiny Management Board or Policy Scrutiny Group or the Overview Scrutiny Group. The Scrutiny Management Board will receive completed reports and will only refer the reports back to the originating panel if it does not support the recommendations. It is expected that Cabinet Lead Members and senior officers called to give evidence before the Scrutiny Panels will do so in the same way as for the Scrutiny Management Board.

Performance Scrutiny Panel

This is the only “permanent” panel but, in keeping with the other panels, it will have a minimum of 3 members with no maximum and will not be politically balanced. Again, it will be chaired by a Commissioner, but the major difference between this and the current Performance Scrutiny Committee will be that it should be more pro-active than reactive. Rather than examining historical data, the new Panel should concern itself with how improvements can be made. For an example, it might visit

other local authorities that might have better performance indicators than ours to find out why and suggest ways in which their good practices might be introduced to improve performance at Charnwood. The Scrutiny Management Board will receive completed reports and will only refer the reports back to this panel if it does not support the recommendations. It is expected that Cabinet Lead Members and senior officers called to give evidence before the Performance Scrutiny Panel will do so in the same way as for the Scrutiny Management Board. This panel will determine itself how often it needs to meet.

Service Review Panel

This panel is similar to other panels and would meet on an ad-hoc basis to consider service review reports prior to consideration by Cabinet. The Scrutiny Management Board will receive completed reports and will only refer the reports back to the originating panel if it does not support the recommendations. It is expected that Cabinet Lead Members and senior officers called to give evidence before the Service Review Panel will do so in the same way as for the Scrutiny Management Board.

Other Committees

Plans, Audit, Standards, Personnel, Licensing and Appeals committees will continue to operate as at present.

It is suggested that the operation of the new structures be reviewed regularly.

Scrutiny Recommendations - Changes to Process

As part of the changes, it is suggested that there be a quicker process in the consideration of scrutiny recommendations by Cabinet. Some might say that the current arrangements are too slow. For instance, the I&R Scrutiny Committee might at the moment ask for a scrutiny review, the outcome of which would be reported back to that Committee (currently meeting on a quarterly basis). The report then would go to Cabinet (meeting monthly) with a recommendation that officers report back to Cabinet within 2 months. When the matter is brought back to Cabinet for decision, it might well be 6-9 months after the conclusion of the scrutiny investigation.

The new process quickens up the process considerably. It is proposed that a scrutiny panel report would go direct to the Scrutiny Management Board (meets 6 weekly). Then it would go to Cabinet without it being deferred to officers afterwards – the officer's comments/opinions/options/recommendations would be included in the

Cabinet report, thereby enabling Cabinet to make a decision at the first time of asking. Only in exceptional circumstances should the report be deferred. This might reduce the time taken by half.

Cultural and Behavioural Changes Required

As with all changes, there will be some cultural and behavioural changes required in order to embrace and embed the proposed new ways of working – it is not all about structures, it is as much about recognising the relationships and dialogue required for effective scrutiny. To assist in this, an outline Cabinet/Scrutiny Protocol is attached as Appendix 3. Also, Paul Clarke from the IDeA has agreed to attend the first meeting of the Cabinet/Scrutiny Liaison Group and the Scrutiny Management Board to help facilitate the new way of working.

Officer Support

A report on the staffing structure for scrutiny will be presented to Cabinet on 2nd September 2010. In the current financial climate, the Council will be looking to restructure and to provide this largely within current budgets.

Both the IDeA and Centre for Public Scrutiny suggest dedicated officer support for scrutiny. At the moment there is no such support and currently officers in service departments, together with committee administrators, support scrutiny as well as Cabinet. The new staffing structure will therefore take this into account.

Financial Implications

There may be minor financial implications arising from staffing changes under the new structure, although attempts will be made to keep costs within current budgets.

The Independent Remuneration Panel has met to consider how the new structure will impact upon the payment of members' allowances. Its report is attached as part of the Council agenda and, if approved, will generate a full year saving of £1,432 (£1,193 pro-rata for 2010-11).

Risk Management

Risk Identified	Likelihood	Impact	Risk Management Actions Planned
New scrutiny arrangements not approved leading to	Low	Medium	Agree alternative arrangements

Risk Identified	Likelihood	Impact	Risk Management Actions Planned
adverse comment by external agencies			

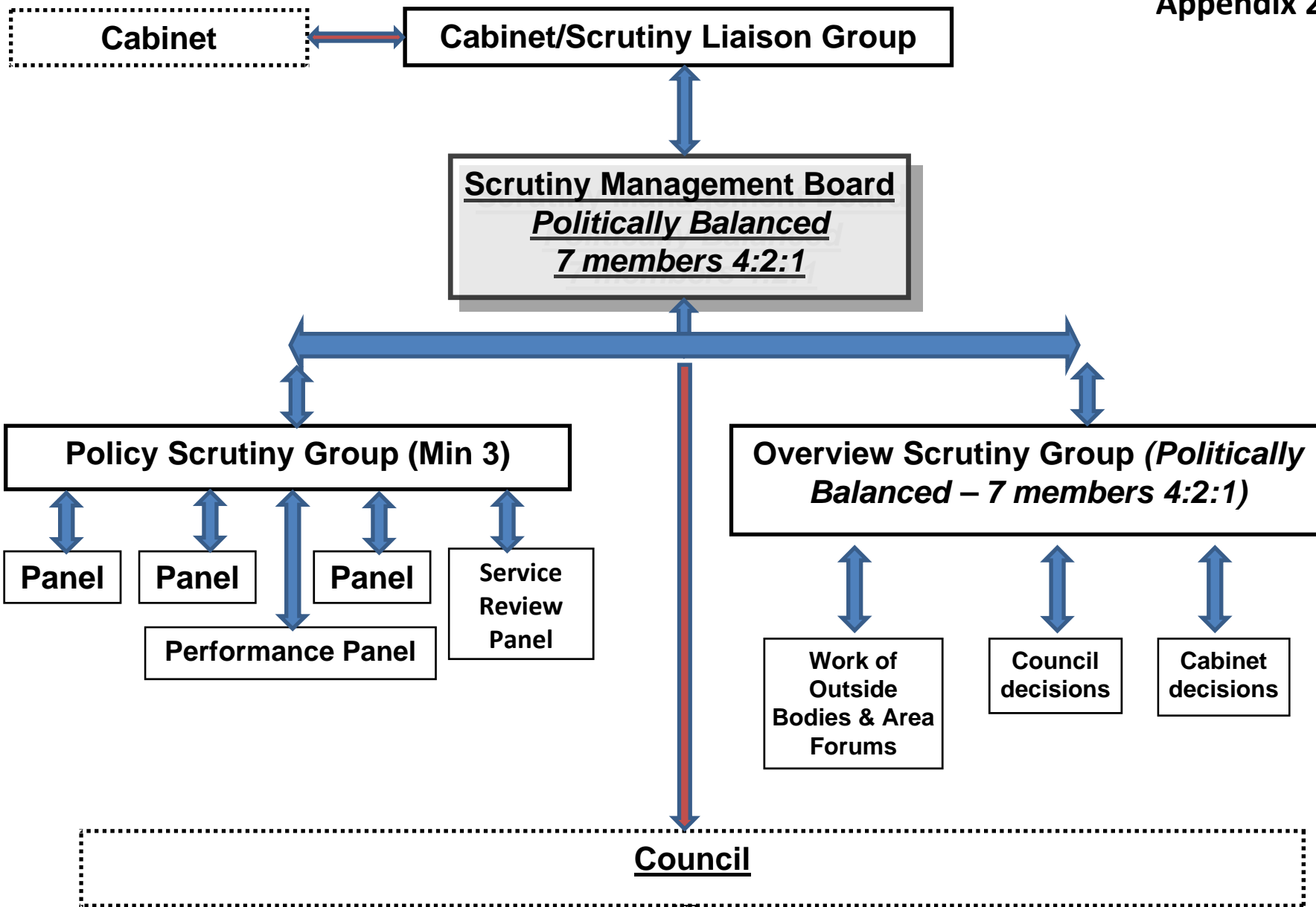
Background Papers: IDeA Summary Report following the Away Day on 20th March 2010
 Charnwood's IDeA Peer Review 2008
 Audit Commission – Charnwood's Use of Resources Assessment 2009

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Appendix I

IDeA Suggested Action	How we will implement
1. Introduce a more regular and formal dialogue between the Leader, Deputy Leader, chairs of scrutiny, Chief Executive, Monitoring Officer and policy/performance officer to enable a shared understanding of where scrutiny can add most value to the work of the Council.	It is suggested that this be part of the meetings outlined in Section 7 below.
2. Developing an executive-scrutiny relationship protocol to further clarify the “rules of engagement” between scrutiny and the executive – building on the provisions in the Constitution. The process of developing the protocol is a way to further the understanding and relationship, rather than an end in itself.	An outline Cabinet-Scrutiny Protocol is attached as Appendix 3 to this report. This will be expanded if necessary as a result of experience and be proposed as an appendix to the Council’s Overview and Scrutiny Procedure Rules as part of the Constitutional changes to be considered in September 2010.
3. Assess how more effective use can be made of information gathered across the Council to inform the scrutiny work programme.	It is suggested that a Scrutiny Panel be established to look into this.
4. Developing a simple communications plan that sets out how the public can be engaged, involved and informed throughout all stages of the scrutiny process.	It is suggested that the Scrutiny Panel above also look at this.
5. Relaxing the formality of scrutiny meetings to enable people to contribute more to discussion and debate. Consider less closed meeting working.	The Scrutiny Management Board will be politically balanced (4:2:1) as will the Overview Scrutiny Group. The Policy Scrutiny Group, Performance Panel and task and finish panels will not be. They will have a minimum of 3 members and no maximum. This encourages only those councillors with a genuine interest in those scrutiny areas to nominate themselves. With the exception of the Scrutiny Management Board, all scrutiny groups/panels will be more informal with fewer reports, notes rather than minutes and less formal agendas. All meetings will be open to the public – the public will however be excluded if there is an exempt item on the agenda.

6. Using co-optees – either on an ongoing basis or during time limited pieces of work – to provide relevant expertise and experience and ensure representation from hard to reach groups.	The use of co-optees will be encouraged.
7. Developing a more systematic and inclusive process (led by scrutiny) for developing an annual scrutiny work programme – perhaps by way of an annual event to generate a long list of topics, followed by consultation to refine it.	It is proposed that there be a Cabinet/Scrutiny Liaison Group which is, in effect, a joint meeting between the newly named Scrutiny Management Board and Cabinet. This will meet at the beginning of every Municipal Year to discuss and agree a Scrutiny Programme. To assist in this, scrutiny will have, for the first time, access to the Cabinet’s Forward Programme. The Liaison Group will meet twice more during the year to review progress and to add to or delete items from the Scrutiny Programme. It will also address, and attempt to resolve, any major differences between Scrutiny and Cabinet so that the Council can be more cohesive.
8. Holding an annual scrutiny development day.	This will be considered, but will depend on available finance.
9. Introducing practice to ensure “quality” meetings e.g. having shorter agendas with timed items.	With the exception of the Scrutiny Management Board and Overview Scrutiny Group, all scrutiny groups and panels will be informal which will give more flexibility to introduce shorter agendas and timed items.
10. Looking more at practice elsewhere to inform new ways of working at Charnwood.	It is suggested that the Scrutiny Panel mentioned in sections 4 and 5 above consider this also.
11. Introducing a standard item onto scrutiny agenda that prompts members to consider the impact/difference made as a result of their debate and deliberations.	This can be introduced.
12. Ensuring that the annual report focuses on outcomes and impact in addition to activity undertaken during the year.	This will be done.



OUTLINE CABINET-SCRUTINY PROTOCOL

The relationship between Cabinet and the Scrutiny function is governed in part by law and in part by the Council's Constitution, in particular the Overview and Scrutiny Procedure Rules. These rules set out the procedures to be followed in terms of access to information and Scrutiny functions such as call-in. The purpose of this protocol is to set out the principles which will be followed by both Cabinet and Scrutiny in applying these rules.

Responsibilities

Cabinet and Scrutiny have very different functions and responsibilities. However the aim of both is to secure the best outcomes for the people who live and work in Charnwood.

1. It is the responsibility of Cabinet to take operational decisions to implement the budget and the key policies set out in the policy framework agreed by Full Council.
2. Scrutiny has a number of responsibilities. These include:
 - holding the Cabinet to account through scrutinising its decisions;
 - calling-in Cabinet decisions which have not yet been implemented if there is a need for aspects of the decision to be reviewed;
 - undertaking reviews of Council activities (whether these are the responsibility of the Cabinet or not) and those of other public bodies in Charnwood, leading to recommendations on improvements which can be made;
 - assisting the Cabinet in policy formulation and developing its recommendations on the budget and policy framework through commenting on the Cabinet's proposals and undertaking reviews.

General Principles

The following five principles set out how the working relationship between Cabinet and Scrutiny should operate.

1. Cabinet and Scrutiny recognise that they each have different functions and responsibilities and the contribution that both can make to securing the best outcomes for the people who live and work in Charnwood.
2. Cabinet and Scrutiny will work alongside each other in a positive manner. Cabinet recognises that Scrutiny has a number of rights, such as call-in and requiring Cabinet members to attend its meetings, and will respect those rights. Scrutiny will exercise those rights responsibly.
3. All participants in the working relationship between Cabinet and Scrutiny will do so in a spirit of mutual respect and constructive challenge.
4. There will be a regular dialogue between Cabinet and Scrutiny through the Cabinet/Scrutiny Liaison Group to promote the effectiveness of the working relationship.

5. The relationship between Cabinet and Scrutiny will be open and transparent. Scrutiny will be provided with access to the Cabinet's forward programme of decisions to enable planning of Scrutiny activity.

Conduct of Meetings

The following principles set out how meetings should be conducted in support of the general principles above.

1. Meetings of Cabinet and Scrutiny bodies are subject to the relevant provisions in the Council's Constitution including that they must normally be held in public unless factors allowed for by law and the Council's Constitution are judged to require consideration with the public and press excluded.
2. Meetings of Cabinet and Scrutiny bodies should be carried out in a businesslike, non-aggressive and non-confrontational manner with courtesy extended to all participants.
3. Meetings of Cabinet and Scrutiny bodies should be held using a room layout appropriate for the business to be conducted.
4. Meetings of Scrutiny bodies should keep in mind the statutory guidance that scrutiny and overview work should be conducted in a non-party political manner.