

Adoption West – Joint Scrutiny Panel

Terms of Reference

General

1. These terms of reference set out the membership, remit, responsibilities and reporting arrangements of the Adoption West (AW) Joint Scrutiny Panel (also referred to as the panel in this document).

Background

2. Following the general election in May 2015 and the publication of 'Regionalising Adoption' (July 2015), in which the government set out their proposals to move to Regional Adoption Agencies (RAA) by the end of the Parliament in 2020, AW was formed and started operating on 1 March 2019.
3. AW is a RAA commissioned to deliver adoption services by six local authorities:
 - a. Bath and North East Somerset Council
 - b. Bristol City Council
 - c. Gloucestershire County Council
 - d. North Somerset Council
 - e. South Gloucestershire Council
 - f. Wiltshire Council
4. AW is a company limited by guarantee and is registered with Ofsted as a Voluntary Adoption Agency (VAA).
5. The respective Directors of Children Services for the six local authorities are the registered owners of the company with ultimate responsibility for organisational performance and appointment / dismissal of directors, which they discharge to the AW Board (see Appendix 1 - AW governance structure).
6. There are a number of documents underpinning the operating of AW, including:
 - a. A Members' Agreement, which clearly sets out the purpose of the collaboration, assigns roles and responsibilities to each of the participating authorities and deals with governance and issues such as dispute resolution;
 - b. Commissioning agreement.
7. Service delivery is defined by a contract that sets out specific performance measures and the reporting requirements of the RAA.
8. The service operates from three hub premises, each comprising a multidisciplinary team of recruitment, assessment, matching and support staff. There is one Adoption / Permanence Panel (see Appendix 2 - AW structure chart).

Effective scrutiny

9. The Centre for Public Scrutiny has previously identified four Effective Scrutiny Principles, in that it:
 - a. Provides critical friend challenge to decision-makers;
 - b. Enables the voice and concerns of the public and its communities;
 - c. Is carried out by independent minded governors who lead and own the scrutiny process; and
 - d. Drives improvement in public services.

10. Some key concepts for the panel to consider are that scrutiny should:
 - a. Be independent of the AW Board;
 - b. Be inclusive, structured, non-adversarial and cross-party;
 - c. Offer constructive challenge to prompt AW Board reflection;
 - d. Make recommendations which are evidence based;
 - e. Be part of a wider web of accountability, which may include partners and the public;
 - f. Not unnecessarily duplicate other assurance activity;
 - g. Be appropriately challenging and use effective questioning techniques;
 - h. Ensure value for money; and
 - i. Provide high levels of assurance.

Purpose of the AW Joint Scrutiny Panel

11. It should be noted that the AW Joint Scrutiny Panel does not fall under the banner of 'Overview and Scrutiny' as defined by the Local Government Act 2000 in that it will not be a body jointly formed by the six participating councils. Although it will not have the power to call in a decision or summon officers to attend, the panel will still provide a scrutiny function led predominantly by democratically elected councillors.

12. It should also be noted that as part of the division of roles between AW and the local authorities, each local authority has retained case management responsibility for the child until the making of the Adoption Order. The local authorities remain responsible for all statutory functions including but not limited to: Statutory Visits, Management and supervision of contact between child and family members, Supervision, administration and finance of foster placements and communication with foster carers (including Fostering for Adoption placements).
 These responsibilities will be monitored by each local authority through its chosen scrutiny mechanism, although the panel will make every effort to notify a local authority if issues within the local authority's responsibility are identified by the panel.

13. The panel will act as a critical friend, providing independent scrutiny of the work of AW. It is an essential element of assuring democratic accountability for the use of public funds.

14. The objective of the panel is to make constructive recommendations to ensure that AW meets its performance targets and expectations. The focus of the panel will be on the Region (not each individual local authority – *paragraph 11 refers*) and members of the panel will work in partnership to focus on performance for the Region overall.
15. The role of the panel is to enhance good decision-making process and it will be able to make recommendations for improvement and make its conclusions public but will not have the power to delay decision-making by AW.
16. Through the panel, and its annual report, each local authority will have an opportunity to demonstrate its commitment to democratically-led scrutiny of AW, without duplicating the workload for either officers or elected members for the six local authorities. It is therefore expected that each local authority would commit to engaging with the work of the panel, either as elected councillor(s) on the panel or as witnesses attending meeting of the panel to provide requested information and answer questions.

Responsibilities

17. The panel will foster and encourage an inclusive, structured, non-partisan and non-adversarial approach which is reliant on evidence rather than anecdote, to perform all scrutiny function on behalf of the Region in respect of AW.
18. The panel will produce an annual report for the AW Board, which will also be presented to the relevant Overview and Scrutiny Committee, or any other Committee the local authority has chosen to review the work of the panel, for each of the authorities by its councillor representative on the panel and, if required, its officer representative on the AW Board.

AW Joint Scrutiny Panel membership

19. Membership: The panel will have a membership of a maximum of 13, made up of:
 - a. 7 non-executive councillors: 1 from each local authority + 1 chair;
 - b. Up to 6 stakeholders within the “adoption triangle”, such as (but not limited to) adoptive parent, adopted young person, adopted adults, birth family member, etc.
 Consideration will have to be given to a balance between the different roles, as well as geographical representation of the Region

No substitutions are permitted for the panel. Members of the panel will gain an in-depth understanding over a series of meetings before reaching conclusions and it would therefore be difficult (and potentially disruptive) for a new member to enter the arena partway through the process.

20. Appointment: the relevant Overview and Scrutiny Committee (or any other committee the local authority has chosen to review the work of the panel) for each authority will appoint its respective non-executive councillor(s).

The panel will invite applications from stakeholders and appointments will be made by the Chair of the Panel in consultation with the AW Service Director.

21. Term of office: each non-executive councillor will be appointed for 2 years, and consideration should be given to local election patterns where appropriate. Stakeholders will also be appointed for an initial period of 2 years from the date of joining the panel.

22. Chair: the chair will be a non-executive councillor elected by the panel on a 2-year rotating basis, at the panel's discretion. Once a chair has been elected by the panel, the local authority the chair of the panel belongs to will be invited to appoint a further non-executive councillor to the panel. The Chair of the panel will act solely in the interest of the Region and focus on the role of chair, whereas the second non-executive councillor will represent his or her local authority and undertake associated reporting duties.

The panel will appoint a chair from its first meeting until May 2021. After May 2021 the chair will be appointed for a 2-year period. This is designed to avoid conflicts with local election patterns and to allow some continuity for membership of the panel.

23. The Chair has the following duties:

- a) To have a holistic view of performance for the whole Region and to act on behalf of the Region;
- b) To work with the AW Service Director to develop an Annual Work Programme for the panel, having regard to the advice of support officers
- c) To set the Agendas for meetings, having regard to the advice of the AW Service Director and of support officers;
- d) To ensure that the panel's annual report is presented to each relevant committee for each local authority, or delegate representation to another member of the panel where required;
- e) To facilitate the smooth running of each meeting;
- f) To ensure that Members of the Panel have an equal voice and an opportunity to discuss and debate items of interest;
- g) To ascertain the sense of the meeting and ensure realistic recommendations are developed;
- h) To resolve any dispute in meetings through the exercise of his/her powers;
- i) To lead the panel in its role as critical friend; and
- j) To be a champion for the scrutiny role.

24. Quorum: the meeting will require three members, at least two being non-executive councillors, to be attending the meeting, either physically or remotely (online or by phone), to be quorate.

25. Attendance: non-executive councillors are expected to attend, either physically or remotely, all meetings of the panel. Issues with attendance will be reported to the AW Board and the relevant Committee.

26. Voting rights: only non-executive councillors will have voting rights; however it will be at the chairman's discretion to invite all members of the panel to express their views and opinions on a decision or recommendation being put to a vote.

Meetings of the AW Joint Scrutiny Panel

27. The Joint Scrutiny Panel will meet no less than four times a year and no more than six times a year, unless an additional meeting is either requested by the AW Board to undertake a specific scrutiny exercise or under exceptional circumstances as requested by at least three members (two of which must be elected councillors) of the Joint Scrutiny Panel.
28. Meetings will be set on a pattern taking into accounts the meetings of AW Board and at a day and time to suit members of the panel and will be reviewed on a yearly basis; or following significant membership changes.
29. Meetings format: Members of the panel would be expected to attend pre-meeting briefings (usually 30minutes to 1 hour – just before the meeting), meetings (usually 1.5 to 2 hours) then “wash-up” sessions (usually 30 minutes – straight after the meeting).
30. Meetings can be attended either in person or remotely (online / telephone) to take into account the geographical distances between members of the panel. However, one meeting a year will be set to be attended in person by all members of the panel.

Witnesses

31. The panel will identify the areas it wishes to scrutinise and will request the Service Director (or any officer the Service Director delegates this role to) to identify relevant witnesses and arrange their attendance.
32. The panel can operate flexibly, taking any approach it considers necessary to inform its deliberations, including:
- a. Meeting with members and officers
 - b. Meeting with external agencies, interest groups and service users
 - c. Considering existing evidence e.g. performance reports
 - d. Gathering new evidence e.g. through surveys, site visits or research ***
 - e. Undertaking or commissioning analysis ***
 - f. Visiting relevant sites or organisations ***
 - g. Learning from other local authorities and areas

*** It should be noted that financial agreement may have to be sought from the local authorities prior to undertaking d, e or f listed above.

Agendas and minutes for the AW Joint Scrutiny Panel

33. Agendas and minutes for the AW Joint Scrutiny Panel will be supported by Wiltshire Council's Overview and Scrutiny team and accessible to all members of the Joint Scrutiny Panel.
34. Agendas and minutes will also be circulated directly to the members of the panel and any witness presenting evidence at the meeting.

Closed meeting and confidentiality

35. To ensure a full and frank discussion of the issues and evidence, the meetings of the panel will not be public meetings. On occasion, the panel may have a specific reason for holding an open meeting, for example to enable wider consultation with interested members of the public. This would have to be a decision made by the panel.
36. Members of the Panel are required to respect confidentiality of specific topics discussed at the meeting as well as the confidentiality of the agendas and minutes for the meetings of the panel.
37. However, the Annual report from the panel will be a public document and considered in public forums.

Reporting and Monitoring

38. The Joint Scrutiny Panel reports directly to the AW Board. The AW board will monitor the efficiency of the Joint Scrutiny Panel, including through its annual report.
39. The panel's annual report will also be presented to the relevant Overview and Scrutiny Committee (or any other Committee the local authority has chosen to review the work of the panel) for the six local authorities by its elected councillor representative on the Joint Scrutiny Panel and, if required, its officer representative on the AW Board.

Review of the Joint Scrutiny Panel

40. At a minimum the terms of reference will be reviewed annually to ensure that they remain aligned with government policy around accountability and transparency and OFSTED guidance.
41. These may be reviewed sooner, either at the AW Board or Panel's request, should there be significant changes to government policy, recommendations from an OFSTED inspection or if the Terms of References set are preventing the Joint Scrutiny Panel from fulfilling its purpose.
42. Any proposed changes to the Terms of Reference will also be presented to the six local authorities' relevant Overview and Scrutiny Committee, or any other Committee the local authority has chosen to review the work of the panel, for consideration.