

**JOINT OVERVIEW & SCRUTINY TRANSITION BOARD (JOSTB)
21 NOVEMBER 2008**

OVERVIEW & SCRUTINY ARRANGEMENTS IN THE INTERREGNUM PERIOD

Introduction

1. At the last meeting of the JOSTB on 31 October, members considered a briefing note by the Service Director, Legal & Democratic Services setting out the provisions regarding the Executive and Overview & Scrutiny (O&S) arrangements in the interregnum period between April and June 2009 – further copy attached for ease of reference. This was in response to questions raised by members at the previous meeting on 26 September.
2. Members were of the initial view that JOSTB should continue its work as currently or similarly constituted until June 2009 in order to mirror as far as possible continuing cross-council representation on the IE during the interregnum period.
3. Members requested a report to this meeting of the Board on the provisions allowing JOSTB to continue its work until June 2009, including provisions for voting co-opted members.

Background

4. The Wiltshire Structural Change Order 2008, which came into force on 26 February 2008, provides for Executive arrangements during the interregnum period. Based on the current position, these regulations make provision for the IE but are silent in respect of O&S.
5. On this basis, scrutiny of the IE's business would fall under the responsibilities of the County Council's own existing O&S arrangements, i.e. the O&S Management Committee as the County Council is the continuing authority. Therefore, if no alternative arrangements are agreed, the JOSTB, on which district councils are represented, will fall on 31 March 2009.
6. The O&S Management Committee does have the power to co-opt any former district council member who wished to be involved in scrutiny of the IE during this period. Such members would be non-voting in accordance with WCC's Constitution although there is provision in the Local Government Act 2000 to allow for voting co-opted members in certain circumstances. Currently this applies to parent governor representatives on the Children's Services O&S Committee and district council representatives on the Health O&S Committee. To propose voting rights beyond these specific categories would involve the full Council approving a scheme, details of which would have to be publicised in the local media. The next and only ordinary meeting of the County Council before April 2009 will be held on 24 February 2009. The O&S Management Committee will next meet on 15 January 2009.

Options

7. Further consideration since the last meeting suggest that there are 3 viable options, with potential variances within each as indicated below. However it should be bourn in mind in recommending a suitable arrangement that it will be needed for only a very short period resulting in possibly only 2 or 3 meetings.
8. The WCC O&S Management Committee could undertake the role of scrutinising the remaining transition to One Council and holding the IE to public account during the interregnum period. This would recognise the DCLG's position in not making specific provisions, and the WCC being the continuing authority.
9. The second option would be for the Management Committee to establish a specific sub-committee for the purpose, or even a task group. The WCC Constitution provides that the ex-district council members could be co-opted but would be non-voting. This would recognise that the ex-district members would have no democratic mandate after 31 March 2009. However as mentioned at the last meeting provision does exist in the Local Government Act 2000 for co-opting voting members. This requires a suitable scheme to be devised and publicised.
10. The third option emerges as a consequence of looking at the arrangements which originally established the Joint Board. In essence this was a formal arrangement between the O&S functions of the 5 councils, time-limited and for a specific purpose. There is nothing to prevent the same arrangement being realigned under the WCC Management Committee with revision to the terms of reference to reflect the demise of the district councils and new reporting arrangements.

Matters for Consideration

11. Quite clearly, the first option outlined in paragraph 8 would be the simplest but runs contrary to the views expressed at the last meeting. To establish a sub-committee with delegated powers requires formal consideration on the size, political proportionality and chairmanship. If voting rights were applied to co-opted members then the current Administration of WCC would be entitled to seek a voting majority which could push the overall size of the sub-committee up to an unreasonable number. It was these considerations that gave rise to the agreement for the Board rather than a formal joint committee.
12. To realign the JOSTB under the O&S Management Committee as currently constituted, particularly bearing in mind the very limited time period in question and the few meetings which would result would appear the most practicable way forward This would not require the formality above and would keep the things very much the same. Revised terms of reference would be written to provide as much autonomy as possible, with the accepted practice of voting remaining.

13. The issue of payment of allowances for “co-opted” members will require further consideration as the current scheme only specifies those serving on the Children’s Services O&S Committee. As with the IE this will be taken to an independent panel.

Conclusion

14. Further consideration suggests that the best way forward would be to simply realign the JOSTB under the WCC O&S Management Committee with the same membership and terms of reference as far as possible to allow maximum autonomy and direct reporting.
15. In reality, scrutiny review findings and recommendations flow from the debate on the evidence submitted with consensus generally reached without the need for a formal vote. The outcome results in only a recommendation to the Executive for decision. However the existing practice of all members having the ability to exercise a vote can be maintained with the realignment of the current arrangements for the short interregnum period.

Matter for Decision

16. The JOSTB is asked to:
 - a) consider and comment on the options set out above in terms of scrutiny of the IE and transition during the interregnum period; and
 - b) recommend the WCC O&S Management Committee accordingly.

IAN GIBBONS
SERVICE DIRECTOR, LEGAL AND DEMOCRATIC SERVICES

Report author: Paul Kelly
WCC Scrutiny Manager