

Open Report on behalf of Richard Wills, Executive Director responsible for Democratic Services

Report to:	Overview and Scrutiny Management Committee
Date:	28 July 2016
Subject:	Combined Authority - Scrutiny Arrangements

Summary:

This report sets out the requirement for the Greater Lincolnshire Combined Authority to establish overview and scrutiny arrangements and seeks views from the Committee on those arrangements.

Actions Required:

- 1) The Committee is asked to note the position with regard to the setting up of a Combined Authority for Greater Lincolnshire.
- 2) The Committee is asked to comment on the overview and scrutiny arrangements for any Combined Authority for Greater Lincolnshire.

1. Background

- 1.1 At its June meeting the Overview and Scrutiny Management Committee requested that a report be prepared on the overview and scrutiny arrangements associated with the setting up of a combined authority for Greater Lincolnshire.
- 1.2 Under the Local Democracy, Economic Development and Construction Act 2009 (LDEDCA), amended by the Cities and Local Government Devolution Act 2016, there is a requirement for combined authorities to establish at least one overview and scrutiny committee and an audit committee. The overview and scrutiny committee(s) established by the combined authority is a committee of the combined authority. In other words scrutiny of the combined authority is carried out within the governance structure of the combined authority itself which is a separate corporate body. The combined authority is not in itself scrutinised by the Constituent Councils or their overview and scrutiny arrangements although paragraphs 1.13 and 1.14 below describe arrangements contained in draft secondary legislation which would enable members of constituent councils to refer matters to the combined authority's overview and scrutiny committee.

1.3 The draft scheme for the establishment of the Greater Lincolnshire Mayoral Combined Authority is currently being consulted on. Section 12 of that draft scheme sets out how the overview and scrutiny arrangements of the Combined Authority would be carried out.

1.4 It states:

“There shall be an Overview & Scrutiny Committee of the Combined Authority pursuant to Schedule 5A of LDEDCA to exercise scrutiny functions over the Combined Authority.

Each Constituent Council will appoint one elected member to the Overview & Scrutiny Committee.

Overview & Scrutiny Committee membership shall not include a Combined Authority Member including the Mayor and the Deputy Mayor.

The Combined Authority shall appoint as Chairman of the Overview and Scrutiny Committee an elected member of one of the Constituent Councils who is not a member of a registered political party of which the Mayor is a member.

Each member on the Overview and Scrutiny Committee shall have one vote and there is to be no casting vote.

If a vote is tied it is deemed not to have been carried.

The Overview & Scrutiny Committee shall have power to:

a) Invite Combined Authority Members and officers, including the Mayor and Deputy Mayor, to attend and answer questions

b) Review or scrutinise decisions or other actions taken in connection with the discharge of any functions which are the responsibility of the Combined Authority or the Mayor

c) Make reports or recommendations to the Combined Authority and the Mayor with respect to the discharge of any functions which are the responsibility of the Combined Authority or the Mayor

d) Make reports or recommendations to the Combined Authority and the Mayor on matters that affect the authority's area or the inhabitants of the Area

e) In respect of any decision made but not implemented by either the Combined Authority or the Mayor, direct that the decision is not to be implemented while it is under review or scrutiny and to recommend that the decision be reconsidered

f) Invite others to attend meetings of the Committee

Where the Overview & Scrutiny Committee makes a report they may also publish it and require a response from the Combined Authority or the Mayor as the case may be.

The notice published must give the Combined Authority or the Mayor two months to consider and respond to the report.”

- 1.5 The results of the public consultation on the draft scheme will be considered by the Council later this year, after which an Executive decision will be required on whether to establish a mayoral combined authority.
- 1.6 The provisions in the Scheme closely mirror the legal requirements set out in Schedule 5A of LDEDCA. One element where there is a degree of discretion is whether the chairman should be an elected member of one of the Constituent Councils who is not a member of a registered political party of which the Mayor is a member (as provided for in the draft Scheme) or an independent person.
- 1.7 Schedule 5A provides for further detail to be contained in secondary legislation by Order. No Order has yet been made law. However, an earlier consultation draft of the Order has been seen. Although some of the detail is not clear, the Order is expected to confirm the requirements set out in the Scheme and make further provision the most significant elements of which are set out below.
- 1.8 Under the draft Order, a majority of an Overview and Scrutiny Committee must be members of the Constituent Councils. The implication of this is that some members may be drawn from outside the Constituent Councils.
- 1.9 Members of an Overview and Scrutiny Committee taken as a whole will be required to reflect so far as reasonably practicable the balance of political parties for the time being prevailing among members of the Constituent Councils (a similar provision to that which applies to Police and Crime Panels).
- 1.10 The Combined Authority must enable any member of a Constituent Council or a non-constituent council to refer to an Overview and Scrutiny Committee of the Combined Authority any matter which is relevant to the functions of the committee and is not an excluded matter. Excluded matters include local crime and disorder matters.
- 1.11 The right to refer under paragraph 1.10 is satisfied if a right is conferred to include the matter in the agenda and for it to be discussed at a meeting of the committee. In determining whether to scrutinise or review decisions or action taken by the Combined Authority the committee must have regard to any representations made by the person referring the matter to the committee and must notify the member of its decision and reasons for it. If the committee makes any report or recommendation as a result of its

consideration it must provide a copy to the person referring the matter subject to the report not containing exempt or confidential information.

- 1.12 Under the draft Order the Combined Authority would be required to designate one of its officers as Scrutiny Officer whose functions would be to
- Promote the role of the Combined Authority's overview and scrutiny committee or committees
 - Provide support and guidance to the Combined Authority's overview and scrutiny committee or committees and its members
 - To provide support and guidance to members of the Combined Authority in relation to the functions of the Combined Authority's overview and scrutiny committee or committees
- 1.13 As drafted the Order would prohibit the Combined Authority from designating as its Scrutiny Officer any officer of a Constituent Council.
- 1.14 It can be seen that the overview and scrutiny arrangements of the combined authority are quite closely regulated by legislation although some elements of discretion remain especially about total numbers of members and the appointment of members otherwise than from the Constituent Councils.
- 1.15 The question has been asked about the scrutiny arrangements in the interim and whether the shadow joint committee of leaders from the ten constituent authorities should have scrutiny in place.
- 1.16 Given that the shadow joint committee is exercising Executive functions on behalf of the constituent authorities, the current arrangements allow for the leader of each authority to be held to account by their own scrutiny process.

2. Conclusion

The results of the public consultation on the draft devolution scheme for Greater Lincolnshire will be known soon, after which it would seem appropriate to consider the scrutiny arrangements for any subsequent mayoral combined authority.

3. Consultation

a) Policy Proofing Actions Required

n/a

4. Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Devolution - Governance Review and Draft Scheme (report to Council on 20 May 2016)	Council website
Cities and Local Government Devolution Act 2016	Democratic Services
Scheme for the Establishment of the Greater Lincolnshire Mayoral Combined Authority	Council website

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