

**Open Report on behalf of Andrew Crookham,
Executive Director - Resources**

Report to:	Overview and Scrutiny Management Board
Date:	29 August 2019
Subject:	Proposed Terms of Reference for <i>Review of Overview and Scrutiny</i>

Summary:

In accordance with the County Council's constitution, the Overview and Scrutiny Management Board is invited to approve a scrutiny review of:

- the *Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities* (issued by the Ministry of Housing, Communities and Local Government in May 2019) and its implications for Lincolnshire County Council; and
- the Council's existing overview and scrutiny arrangements, which were introduced from May 2017.

The review would be undertaken by Scrutiny Panel B. Terms of reference for the proposed review are also submitted for the Board's consideration and approval, together with a completion date for the review. These are set out in Appendix A to this report.

Actions Required:

The Board is invited

- (1) To approve a review by Scrutiny Panel B of:
 - the *Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities* (issued by the Ministry of Housing, Communities and Local Government in May 2019) and its implications for Lincolnshire County Council; and
 - the Council's existing overview and scrutiny arrangements, which were introduced in May 2017.
- (2) To title the review as "Review of Overview and Scrutiny".
- (3) To approve the terms of reference, lines of enquiry, exclusions and completion date of the review as set out in Appendix A to this report.
- (4) To support the nomination of an Executive Councillor as an advisor to Scrutiny Panel B.
- (5) To receive an interim report from Scrutiny Panel B at its meeting on 19 December 2019.

1. Background

Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities

Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities was issued by the Ministry of Housing, Communities and Local Government in May 2019. This follows the publication of a report by the House of Commons Select Committee on Communities and Local Government on 15 December 2017, entitled: *The Effectiveness of Local Authority Overview and Scrutiny Committees*, which made eight recommendations to the Government. This included a recommendation that the statutory guidance on overview and scrutiny (last issued in 2006) should be updated.

The Government responded to the Select Committee in March 2018, and acknowledged that the statutory guidance needed updating and indicated that new guidance would be published later in 2018.

The guidance, published in May 2019, stated that it takes account of the written and oral evidence supplied to the Select Committee as part of its review. The Ministry states that there has also been consultation with individuals and organisations with practical involvement in conducting, researching and supporting scrutiny.

The Ministry also states that the guidance recognises that authorities have democratic mandates and are ultimately accountable to their electorates, and that authorities themselves are best-placed to know which scrutiny arrangements are most appropriate for their own individual circumstances.

The introduction to the guidance states that it:

"... is aimed at local authorities ... in England to help them carry out their overview and scrutiny functions effectively. In particular, it provides advice for senior leaders, members of overview and scrutiny committees, and support officers. This guidance seeks to ensure local authorities ... are aware of the purpose of overview and scrutiny, what effective scrutiny looks like, how to conduct it effectively and the benefits it can bring.

"As such, it includes a number of policies and practices authorities should adopt or should consider adopting when deciding how to carry out their overview and scrutiny functions. The guidance recognises that authorities approach scrutiny in different ways and have different processes and procedures in place, and that what might work well for one authority might not work well in another."

The guidance is statutory, which means that local authorities must have regard to it when exercising their functions. This does not mean that the sections of statutory guidance have to be followed in every detail, but that they should be followed unless there is a good reason not to in a particular case.

The *Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities* supersedes the previous guidance (issued in 2006) and includes chapters on:

- Introduction and Context
- Culture
- Resourcing
- Selecting Committee Members
- Power to Access Information
- Planning Work
- Evidence Sessions

The guidance also has three annexes, which contain illustrative scenarios covering the following:

- Creating an Executive-Scrutiny Protocol
- Engaging Independent Technical Advisers
- Approaching an External Organisation to Appear before a Committee

The guidance is available at the following link:

<https://www.gov.uk/government/publications/overview-and-scrutiny-statutory-guidance-for-councils-and-combined-authorities>

Other Guidance: Health Scrutiny (*Department of Health and Social Care*)

Health overview and scrutiny committees have separate national guidance, which was issued by the Department of Health in June 2014, entitled: *Local Authority Health Scrutiny - Guidance to Support Local Authorities and Their Partners to Deliver Effective Health Scrutiny*. This guidance summarises the powers and duties of health scrutiny committees, as set out in the relevant law and regulations. It also summarises the legal duties of the commissioners and providers of NHS-funded services to engage with health scrutiny committees, as required, for example, by attending meetings and providing information. A significant element of the guidance covers consultation and complements the regulations which apply when the NHS is proposing a substantial variation or development in health service provision.

Other Guidance: The Good Scrutiny Guide (*Centre for Public Scrutiny*)

In June 2019, the Centre for Public Scrutiny (CfPS) updated *The Good Scrutiny Guide*. The CfPS states that the guide is intended to provide advice to councils, councillors and officers on the operation of overview and scrutiny. This guidance is non-statutory and includes chapters on the following:

- An Overview of Scrutiny
- Scrutiny's Stakeholders
- Role and Priority
- Using Evidence and Gaining Experience
- Making and Proving Impact
- Committee Structure, Chairing and Resourcing.

In addition in 2018, the CfPS has updated *Pulling It All Together: A Guide to Legislation Covering Scrutiny and Governance in English Local Government*.

The CfPS documents are available at: <https://www.cfps.org.uk/publications/>

Lincolnshire's Overview and Scrutiny Arrangements

The County Council's existing overview and scrutiny arrangements were introduced in May 2017, following a previous scrutiny review in 2016. The following eight committees hold their meetings in public, in accordance with the provisions in the Local Government Act 1972:

Committee / Board	Scheduled Meetings Each Year	Membership <small>(*) = non-voting (#) = voting on education matters only</small>
Adults and Community Wellbeing	8	11 county councillors
Children and Young People	8	11 county councillors 4 education added members (#)
Environment and Economy	8	11 county councillors
Flood and Water Management	4	11 county councillors 7 district councillors
Health Scrutiny	11	8 county councillors 7 district councillors 1 other member (*)
Highways and Transport	8	11 county councillors
Overview and Scrutiny Management	11	11 county councillors 4 education added members (#)
Public Protection and Communities	8	11 county councillors

In addition to the 66 scheduled meetings held in public, scrutiny committees may also undertake visits; hold workshop and briefing meetings; and establish ad hoc working groups to consider a topic in detail.

Scrutiny Panel A and Scrutiny Panel B were also established in 2017 and have completed in-depth scrutiny reviews on: -

- Impact of the Part Night Street Lighting Policy (April 2018)
- Transitions (April 2019)
- Roundabout Sponsorship (July 2019)

Following the decision of the County Council on 17 May 2019, the Corporate Parenting Panel, which is part of the overview and scrutiny function, is now scheduling six meetings per year open to the public. The Panel may report directly to the County Council and comprises seven county councillors and five other members.

The Safeguarding Boards Scrutiny Sub Group is also part of the overview and scrutiny function, scrutinising the activities of the Lincolnshire Safeguarding Adults Board and the Lincolnshire Safeguarding Children Partnership. The Sub Group comprises seven county councillors and five other members and meets four times per year in private. The Sub Group may submit reports to the Adults and Community Wellbeing Scrutiny Committee and the Children and Young People Scrutiny Committee, as necessary.

Article 6 of the County Council's Constitution sets out the terms of reference of the above groups.

Reasons for the Review

There has been a commitment to review the Council's existing overview and scrutiny arrangements, which were introduced in May 2017. This review was deferred, pending the publication of the new statutory guidance, which had been expected earlier than May 2019. Now this guidance is available, it is proposed that a scrutiny panel undertakes the review, to ensure a wider involvement of councillors in the process. This approach has been endorsed by Group Leaders, who also suggested that an Executive Councillor should be nominated to attend the Scrutiny Panel meetings in an advisory role.

Implementation of Recommendations

Some recommendations from this review could be implemented immediately, if they fall within the remit of this Board. Other recommendations may need the agreement of the Executive, for example any recommended changes to the Executive / Scrutiny Protocol.

However, if there are any recommendations, which require changes to the Council's Constitution, they will require a decision from the County Council, following consideration by the Audit Committee (as required in the Council's Constitution), in either May or September 2020. Furthermore, if the review were to make recommendations on the structure or size of overview and scrutiny committees, it may not be appropriate to implement these changes for the final year of the Council's four year term and instead delay implementation until the following Council Term.

Scrutiny Panel B

It is proposed (subject to the decision of this Board) to assign this review to Scrutiny Panel B.

Membership of Scrutiny Panel B

Scrutiny Panels will normally consist of no more than eight members, including the Chairman and Vice Chairman of the Panel. Any non-executive councillor may serve on a Scrutiny Panel. As far as possible, the membership of Scrutiny Panels should be inclusive of each political group of the County Council. To facilitate this approach, each group leader may nominate non-executive councillors from their group to serve on the Scrutiny Panel for each review.

2. Conclusion

Given the publication of the statutory guidance on overview and scrutiny in May 2019, and the commitment to undertake a review of the Council's overview and scrutiny arrangements, which were implemented from May 2017, it is considered appropriate to undertake a review of overview and scrutiny.

The Board is invited to approve the terms of reference and completion dates for the review of overview and scrutiny by Scrutiny Panel B. The Board is also invited to receive an interim report from Scrutiny Panel B at its meeting on 19 December 2019.

3. Consultation

Group leaders have been consulted and have indicated their assent for a review of scrutiny.

4. Appendices

These are listed below and attached at the back of the report	
Appendix A	Scrutiny Panel B - Review of Overview and Scrutiny – Proposed Terms of Reference, Lines of Enquiry, Exclusions and Completion Date

5. Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Simon Evans, Health Scrutiny Officer, who can be contacted on 01522 553607 or by e-mail at Simon.Evans@lincolnshire.gov.uk

Scrutiny Panel B – Proposed Review on Overview and Scrutiny

Terms of Reference

- (1) To examine the *Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities* issued by the Ministry of Housing, Communities and Local Government on 7 May 2019 and its implications for Overview and Scrutiny at Lincolnshire County Council.
- (2) Subject to the exclusion below, to review the current Overview and Scrutiny arrangements, which have been in place since May 2017, to see whether any further improvements can be made.

Main Lines of Enquiry

- (1) To examine the *Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities* and its implications for Overview and Scrutiny at Lincolnshire County Council, by evaluating how the Statutory Guidance relates to the current Overview and Scrutiny arrangements at Lincolnshire County Council and identifying how the existing arrangements comply with the provisions in the Statutory Guidance.
- (2) To examine the current Overview and Scrutiny arrangements, including the Scrutiny-Executive protocol, and identify any areas for potential improvement.

Exclusion from Review

This review will examine the "Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities" and the current Overview and Scrutiny arrangements at Lincolnshire County Council. Only the relevant legislation and this statutory guidance will be considered during this review.

Completion Dates

Overview and Scrutiny Management Board – 26 March 2020

Executive – 5 May 2020

(Note: As stated in the main report, if any changes are proposed to the Council's Constitution, they would require a decision by the County Council, following consideration by the Audit Committee. This could mean consideration of changes by the County Council in May or September 2020.)

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