

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

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| Report to: | County Council |
| Date: | 16 December 2016 |
| Subject: | Review of Scrutiny |

Summary:

This report seeks to update the Council on progress made by the Overview and Scrutiny Management Committee since December 2015 when the Council endorsed the recommendations in an independent report on scrutiny.

At its meeting on 18 December 2015 Council invited the Committee to implement 15 of the recommendations with immediate effect and bring back a revised governance structure for scrutiny based on the '5+1' model recommended in the independent report.

This report concludes that work and recommends a new scrutiny structure to be in place for the new Council in May 2017.

Recommendation(s):

That the Council:

- 1) Notes the work undertaken by the Overview and Scrutiny Management Committee and the Review of Scrutiny Working Group.
- 2) Adopts with immediate effect the Scrutiny-Executive protocol, 'Developing Effective Relationships Between the Executive and Scrutiny' as set out in Appendix A.
- 3) Approves the proposals for the restructure of scrutiny arrangements at Lincolnshire County Council set out in recommendations A - N in Section 3 of this report to be implemented with effect from 1 May 2017.
- 4) Receives a report at its meeting on 24 February 2017 on the amendments to the County Council's Constitution arising out of the changes agreed.
- 5) Reviews the new arrangements 12 months after implementation.

1. Background

- 1.1 At its meeting on 18 December 2015 the County Council considered an independent report (A Review of Scrutiny at Lincolnshire County Council) by Stuart Young, Chief Executive Officer of East Midlands Councils.

The County Council resolved:

- (i) That the Council welcomes the independent report following a review of scrutiny arrangements at Lincolnshire County Council
 - (ii) That the Council endorses the recommendations contained within the report and invites the Overview and Scrutiny Management Committee to oversee the implementation of Recommendations 1-15 with immediate effect.
 - (iii) That in relation to Recommendation 15 in the independent report, the Council transfers responsibility for the scrutiny of the Council's budget and performance from the Value for Money Scrutiny Committee to the Overview and Scrutiny Management Committee and amends the Council's Constitution accordingly.
 - (iv) That the Council supports a revision of the governance structure for scrutiny, along the lines of the 5 + 1 model put forward by Dr Young and invites the Overview and Scrutiny Committee to consider the detail of such an arrangement for implementation after the County Council election in 2017.
- 1.2 The Overview and Scrutiny Management Committee set up a working group to consider Dr Young's final report in more detail and bring forward recommendations to support improvement of scrutiny at the Council.

2. Working Group

- 2.1 The working group comprised Councillors Robert Parker (Chairman); Mrs Marianne Overton, MBE, (Vice-Chairman), Chris Brewis, Mrs Jackie Brockway, Alan Jesson, Colin Mair, Mrs Angela Newton and Lewis Strange. The Working Group met on nine occasions, between February 2016 and November 2016.
- 2.2 To support its activities, members of the Working Group visited other local authorities to discuss their overview and scrutiny functions. The Working Group held discussions with councillors and officers at the City of Lincoln Council and Boston Borough Council, both of which have won Centre for Public Scrutiny Awards. The Working Group reviewed documentation on a wide range of topics, which included the following:
- the overview and scrutiny committee structures of other County Councils, in their 'branding' and areas of responsibility;

- a detailed analysis of the business, including outcomes, and length of meeting, of each overview and scrutiny committee in Lincolnshire over the last three complete municipal years;
- a review of best practice documentation from the Centre for Public Scrutiny.
- presentations and notes from an INLOGOV (Institute of Local Government Studies) Seminar - 'Scrutiny In Challenging Times' held at the University Of Birmingham on 27 May 2016.

2.3 The Working Group divided its work into three main topics:

a) The Relationship Between Executive and Scrutiny

Dr Young made a number of recommendations in this respect, most of which related to improving communication between the Executive and Scrutiny. These points have been picked up in the Executive and Scrutiny Protocol, *Developing Effective Relationships Between the Executive and Scrutiny*, which was endorsed by the Overview and Scrutiny Management Committee on 28 July 2016. The protocol is attached at Appendix A to this report and it is recommended that the Council adopts the protocol.

The protocol includes:

- the early involvement of scrutiny committees in policy development;
- the attendance of the Chairman of the Overview and Scrutiny Management Committee at every meeting of the Executive;
- the attendance of chairmen or vice-chairmen of scrutiny committees at meetings of the Executive to present the comments of the committee and to offer a flavour of the committee's debate;
- the attendance of relevant executive councillors (or their executive support councillor) at relevant scrutiny committees, particularly when invited to do so, so they may witness the richness of the debate prior to making executive decisions in their portfolio areas; and regular briefing meetings between the chairmen and vice-chairmen of overview and scrutiny committees and the relevant executive councillors.

b) Culture of the Council

There is general acceptance, as stated in *Developing Effective Relationships Between the Executive and Scrutiny* (the executive – scrutiny protocol), that to be effective, scrutiny should be involved at an early stage of policy development. For this to be possible, trust needs to be established. *Developing Effective Relationships between the Executive and Scrutiny* highlights a need for the process not to be confrontational or simply a means through which to apportion blame if things go wrong.

c) Structure of Overview and Scrutiny Committees

The Review of Scrutiny Working Group considered options for a new scrutiny structure, to be implemented following the County Council Elections in May 2017. As previously stated the County Council had expressed a preference for Dr Young's 'Five Plus One' model (five scrutiny committees and one overview committee). The model includes a third tier in the form of two Scrutiny Panels to support scrutiny committees by carrying out detailed review work on behalf of the scrutiny committees, as directed and co-ordinated by the Overview and Scrutiny Management Committee.

The Working Group also suggested that, in view of the proposed reduction in the number of committees, there may be a need for all day meetings for scrutiny committees and Scrutiny Panels.

3. Recommendations from the Overview and Scrutiny Management Committee

- 3.1 The Overview and Scrutiny Management Committee supported the Working Group's 14 recommendations, which are set out below, together with a brief rationale. ***For ease of reference the 14 recommendations are designated A-N, to differentiate them from the numbered recommendations in Dr Stuart Young's report.***
- 3.2 Subject to the County Council's approval of the recommendations, the required changes to the Council's Constitution will be drafted and submitted to the County Council on 24 February 2017.

Recommendation A – Overall Structure (Five Plus One Model)

- 3.3 Recommendation 17 of the report by Dr Stuart Young recommended the Five Plus One model for the Council's overview and scrutiny committee structure. This approach was endorsed by the County Council in December 2015. The Working Group reviewed several options and concluded that the most appropriate structure would be one that reflected the County Council's commissioning strategies. This was supported by the Overview and Scrutiny Management Committee. The structure chart and detailed responsibilities are set out in Appendix B to this report. Dr Young also recommended (Recommendation 16) the establishment of two Scrutiny Panels, which would undertake in-depth scrutiny review work on behalf of the overview and scrutiny committees. Under the proposed arrangements, this review activity would be co-ordinated by the Overview and Scrutiny Management Board.

Recommendation A - That the Council approve a three tier scrutiny structure, in accordance with the structure chart and the detailed list of responsibilities in Appendix B to this report, which will include the following bodies:

- **Overview and Scrutiny Management Board**
- **Adult Care and Public Health Scrutiny Committee**

- **Children and Young People Scrutiny Committee**
- **Communities and Public Protection Scrutiny Committee**
- **Environment, Economy and Transport Scrutiny Committee**
- **Health Scrutiny Committee for Lincolnshire**
- **two standing Scrutiny Panels.**

Recommendation B – Frequency of Scrutiny Committee Meetings

- 3.4 After consideration of the volume of business of existing committees, and their intended roles, it is proposed that that Overview and Scrutiny Management Board (OSMB) would meet each month, with the exception of August. This is in effect a continuation of the existing arrangement of the Overview and Scrutiny Management Committee. Similarly the Health Scrutiny Committee for Lincolnshire would continue to meet 11 times each year. The other four scrutiny committees would meet eight times per year, again a continuation of existing arrangements.

Recommendation B - That County Council approve the following frequency of meetings:

- **Overview and Scrutiny Management Board – eleven times per year**
- **Adult Care and Public Health Scrutiny Committee – eight times per year**
- **Children and Young People Scrutiny Committee– eight times per year**
- **Communities and Public Protection Scrutiny Committee – eight times per year**
- **Environment, Economy and Transport Scrutiny Committee – eight times per year**
- **Health Scrutiny Committee for Lincolnshire – eleven times per year**

Recommendation C – Flood and Drainage Management Scrutiny Committee

- 3.5 Section 9FH of the Local Government Act 2000 requires the County Council to make arrangements to review and scrutinise flood risk management functions. A recent Environment Agency report on flood risk in Greater Lincolnshire identified that there were 223,677 houses at risk of flooding in the county, with an area of flood plain of 2,843 km², which represents 17% of the national total flood plain. In addition, the length of the County's main rivers total 1,500 km; and the length of raised river defences total 1,700 km, which represents 25% of national total. The total length of coastal and tidal defence equals 350 km.
- 3.6 In view of Lincolnshire's particular geography set out in the previous paragraph and hence the importance of effective flood and drainage management, it is proposed that the existing arrangements would continue,

whereby the Flood and Drainage Management Committee would meet up to four times each year, as a distinct committee. The membership of the Flood and Drainage Management Committee would comprise the same membership as the Environment, Economy and Transport Scrutiny Committee, with the addition of seven representatives, one from each district council.

Recommendation C - That the County Council retains the Flood and Drainage Management Committee, which will operate along the following lines:

- **the Membership of the Flood and Drainage Management Committee would comprise the same County Council membership as the Environment, Economy and Transport Scrutiny Committee, with the addition of one representative from each district council; and**
- **up to four meetings of the Flood and Drainage Management Committee would be held per year.**

Recommendation D – Crime and Disorder Committee

- 3.7 There is a requirement in Sections 19-20 of the Police and Justice Act 2006 for local authorities to make arrangements for the review and scrutiny of its crime and disorder functions. The usual approach in local authorities is to designate one of its overview and scrutiny committees, as its Crime and Disorder committee. It is proposed that the Communities and Public Protection Scrutiny Committee fulfil this role. It is a requirement to hold at least one crime and disorder committee each year, as specified in Regulation 4 of the Crime and Disorder (Overview and scrutiny) Regulations 2009.
- 3.8 It should be noted that the power of a Crime and Disorder committee is to scrutinise community safety partnerships as a whole, and not to scrutinise individual partners within the Community Safety Partnership such as the Police. The Police are accountable to the Police and Crime Commissioner, who in turn is accountable to the Police and Crime Panel.

Recommendation D – That the County Council designate the Communities and Public Protection Scrutiny Committee the Crime and Disorder committee for the purposes of the Sections 19-20 of the Police and Justice Act 2006 and at least one meeting of the Crime and Disorder committee be held each year.

Recommendations E and F – Scrutiny Panels – Chairmen and Vice-Chairmen

- 3.9 A key proposal from the Working Group, which reflects recommendation 16 in the report from Dr Young, is the establishment of two Scrutiny Panels to undertake in-depth scrutiny review activity on behalf of the Overview and Scrutiny committees. The Scrutiny Panels would replace the existing Task and Finish Group arrangements. Whilst the membership of these two Panels

would change, depending on the activity or scrutiny review in question, the Panels would have standing Chairmen and Vice-Chairmen, who would be eligible for Special Responsibility Allowances. The Overview and Scrutiny Management Committee supported this proposal.

- 3.10 Dr Young recommended that Chairmen and Vice-Chairmen of the Scrutiny Panels should be appointed annually. The Working Group and Overview and Scrutiny Management Committee agreed. In order to allow more councillors to take a leading role in the Overview and Scrutiny process, as well to develop their skills and expertise, it is also proposed that the Chairmen and Vice-Chairmen of Overview and Scrutiny committees would not be eligible to serve as Chairmen or Vice-Chairmen of Scrutiny Panels.

Recommendation E - That the Chairmen and the Vice-Chairmen of Scrutiny Panels to be appointed on an annual basis and be eligible for a Special Responsibility Allowance.

Recommendation F - That the Chairmen and Vice-Chairmen of scrutiny committees would not be eligible to hold the office of Chairmen and Vice-Chairmen of Scrutiny Panels.

Recommendations G and H – Scrutiny Panel Membership

- 3.11 The Overview and Scrutiny Management Committee recommends that wherever possible, the membership of Scrutiny Panels should include councillors from each political group. The memberships of Scrutiny Panels should also enable councillors with relevant skills and experience to be involved in particular scrutiny activities or reviews.
- 3.12 Where a Scrutiny Panel is undertaking a review on behalf of the Health Scrutiny Committee for Lincolnshire, the District Council representatives from that Committee would be invited to become members of the Scrutiny Panel for that purpose. The same principles would apply to the Flood and Drainage Management Scrutiny Committee. Similarly, where a Scrutiny Panel is undertaking a review on behalf of the Children and Young People Scrutiny Committee, the Parent Governors and Church representatives from that committee would be invited to participate as members of the Panel when the topic relates to the Council's education functions. Ideally each Panel should have no more than eight participating members, including the Chairman and Vice-Chairman, and any District Council representatives, Parent Governors or Church representatives.
- 3.13 The role of replacement members on Scrutiny Panels was considered, and there is general support from the Working Group and Overview and Scrutiny Management Committee for replacement member arrangements. However, as an activity or a review nears its conclusion, it might be difficult for a replacement member to participate fully in the Panel's activities, owing to the amount of evidence considered up to that point, so ideally replacement member arrangements would be undertaken in the early stages of a review.

It is proposed that the Scrutiny Panel Chairman provides guidance on replacement member arrangements towards the end of a review.

Recommendation G - That, wherever possible, Scrutiny Panels should include a member from each political group.

Recommendation H – That each Scrutiny Panel should have no more than eight participating members, including the Chairman and Vice-Chairman, and any District Council representatives, Parent Governors or Church representatives; and that replacement member arrangements be permitted on Scrutiny Panels, with the guidance of the Scrutiny Panel Chairman at the concluding stages of a review.

Recommendation I – Meetings of Scrutiny Panels

- 3.14 Task and Finish Group meetings have always been in an informal setting, without the press or public present, to enable an open discussion, which enables participants and contributors to speak frankly. The Working Group and Overview and Scrutiny Management Committee favoured Scrutiny Panel meetings being held in public, but accepted that private sessions may be needed to ensure effective engagement. Where meetings are held in public, the arrangements would not be subject to the full access to information requirements, namely the publication of agendas five clear working days in advance of the meeting and publication of notes from the meetings, in Part V (A) of the Local Government Act 1972.

Recommendation I - That meetings of Scrutiny Panels should generally be held in public, with decisions on whether particular meetings should be in public or private being considered as part of the review scoping process.

Recommendation J – Work Programme Development

- 3.15 The Working Group and Overview and Scrutiny Management Committee agreed with Dr Young's recommendation that the Overview and Scrutiny Management Board should take a lead role in delivering the revised approach to scrutiny, specifically setting the scrutiny work programme. The Working Group considered detailed information on the content of each overview and scrutiny committee meeting over the last three years and agreed that an annual work programme approach would be the best means of managing the activities of each scrutiny committee.
- 3.16 The Working Group and Overview and Scrutiny Management Committee believe that only high priority topics should be considered by scrutiny committees, and that items for information should be dealt with by other means, for instance briefing papers. Budget and quarterly performance monitoring items will still be considered by each scrutiny committee. It was agreed that it was important that the scrutiny process added value to the decision-making process. It is recommended that each year the OSMB will draw up in advance the annual scrutiny programme for approval by the

County Council at its May meeting. The annual work programming arrangements would allow for items to be added during the year, where there was a pressing need to do so.

3.17 The following approach is suggested to develop the work programme:

Stage 1 – Consultation and Engagement – (March) – An annual workshop engages and consults with all members and senior officers on the content of each scrutiny committee's work programme and produces a list of topics for each scrutiny committee.

Stage 2 – Refining the List of Potential Topics – (Early April) – A refined list of potential topics is produced for each scrutiny committee.

Stage 3 – Final List of Topics – (Late April) – Final list to be approved by the Overview and Scrutiny Management Board for submission to the County Council.

Stage 4 – Final Approval – (May) – The Overview and Scrutiny Management Board approves the work programme, including the list of items for each scrutiny committee.

Recommendation J - That the Council holds an annual workshop for all members and senior officers to inform the development of the scrutiny work programme for each scrutiny committee for the year ahead, with some unallocated time for each committee to consider items that arise and merit consideration during the course of the year. This process should begin in March 2017.

Recommendation K – Prioritisation Tool – Scrutiny Review

3.18 The Working Group considered the arrangements for choosing the topics for in-depth scrutiny review and agreed that a prioritisation toolkit should be used. This prioritisation tool would support decision making in relation to whether topics were brought forward for in-depth scrutiny review. The toolkit can also be used at the annual scrutiny work programme workshop to consider whether topics should be included in the work programme. These arrangements were supported by the Overview and Scrutiny Management Committee.

Recommendation K - That a scrutiny prioritisation toolkit, as set out in Appendix C to this report, be adopted to guide the selection of topics for in-depth scrutiny review and for use at the annual scrutiny work programme workshop to guide the selection of topics for inclusion in the annual scrutiny work programme process.

Recommendation L – Corporate Parenting Sub-Group

3.19 Under the existing arrangements, an approach has developed whereby the Corporate Parenting Panel reports to the Children and Young People Scrutiny Committee. Corporate parenting panels are not strictly Overview and Scrutiny committees in terms of their legislative status. However, it is recommended that the Corporate Parenting arrangements be formally

included within the overview and scrutiny function. It is therefore proposed that the Corporate Parenting Sub Group continues to submit its minutes to the Children and Young People Scrutiny Committee.

Recommendation L - That the Council's Corporate Parenting Sub Group, which would continue to meet four times per year in private, be formally included within the Overview and Scrutiny arrangements, with its minutes being submitted to the Children and Young People Scrutiny Committee.

Recommendation M - Safeguarding Boards Scrutiny Sub Group

- 3.20 The existing Safeguarding Boards Scrutiny Sub Group reports to both the Adults Scrutiny Committee and Children and Young People Scrutiny Committee. The role of the Safeguarding Boards Scrutiny Sub Group is to review and scrutinise the activities of the inter-agency Lincolnshire Safeguarding Adults Board (LSAB) and the Lincolnshire Safeguarding Children Board (LSCB). The Chairmen of both the LSAB and LSCB have been consulted, and they value the contribution made by the Safeguarding Boards Scrutiny Sub Group. It is therefore proposed that this Sub Group continues, with the existing frequency of quarterly meetings.

Recommendation M - That the Safeguarding Boards Scrutiny Sub-Group continue in the new overview and scrutiny arrangements, meeting four times per year in private and reporting as required to the Adult Care and Public Health Scrutiny Committee and Children and Young People Scrutiny Committees.

Recommendation N – Special Interest Roles

- 3.21 The Working Group and Overview and Scrutiny Management Committee supported the idea of allowing particular members of each scrutiny committee to take up a special interest subject area. This would allow the particular member to develop their own expertise on a particular topic, for example undertaking their own additional research. As a result they could take a lead on questioning when the topic is under consideration by the committee. Where the member had undertaken such research he / she could review and report on the proceedings of an area of work, item or decision.
- 3.22 It is considered that such arrangements would aid the Committee's understanding of a certain topic and lead to more effective scrutiny of decision making. When each scrutiny committee considers its work programme, it could consider whether individual councillors would like to adopt a special interest role for particular areas of interest.

Recommendation N - That the Council introduces a special interest role for members of a scrutiny committee to develop their expertise on particular topics, to improve the effectiveness of scrutiny.

4. Review of Recommendations in *A Review of Scrutiny at Lincolnshire County Council* by Dr Stuart Young

A Review of Scrutiny at Lincolnshire County Council by Dr Stuart Young made a total of 17 recommendations. As stated above, on 18 December 2015, the County Council invited the Overview and Scrutiny Management Committee to implement recommendations 1-15 with immediate effect. The Overview and Scrutiny Management Committee was invited to bring forward proposals for the overview and scrutiny structure (recommendations 16 and 17), which are set out in Section 3 of this report. Appendix D sets out a summary of the progress with each of the 17 recommendations in Dr Young's report and includes additional suggestions for taking forward which are not formal recommendations from the Overview and Scrutiny Management Committee.

5. Conclusion

This report brings together the work of the Review of Scrutiny Working Group and Overview and Scrutiny Management Committee and makes recommendations on structure to the Council. The key points arising from this work are:-

1. Dr Young's report has been used as a blueprint and in some places the Working Group and Overview and Scrutiny Management Committee have developed the ideas outlined in Dr Young's report.
2. The Working Group and Overview and Scrutiny Management Committee have made use of good practice in other councils.
3. The importance of an effective working relationship between Executive members and Scrutiny Committee members as set out in the Protocol.
4. The Working Group and Overview and Scrutiny Management Committee sought to establish the principle that "Scrutiny Matters" as a way of enabling better decision making to take place and to monitor performance.
5. That early involvement of the scrutiny function is essential to good decision making.
6. That all councillors should be engaged in setting scrutiny priorities each year.
7. That councillors should be given the opportunity to develop special interests in particular topics to improve the effectiveness of scrutiny.
8. That scrutiny committees should monitor their own effectiveness each year.

6. Legal Comments:

Section 9F of the Local Government Act 2000 requires the Council to appoint one or more overview and scrutiny committees to fulfil the functions set out in sections 9FA to 9FI to the Act.

Section 9FH requires the Council as a lead local flood authority to make arrangements to review and scrutinise the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the Council's area.

Section 19 of the Police and Justice Act 2006 requires the Council to ensure it has a committee to review or scrutinise decisions made, or other action taken, in connection with the discharge by responsible authorities of their crime and disorder functions.

Under Regulation 21 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 the Council may review and scrutinise any matter relating to the planning, provision and operation of the health service in its area and may arrange to do so through an overview and scrutiny committee.

The Report proposes a structure by which the Council can exercise these duties and powers.

Determining the Council's overview and scrutiny arrangements including the number of Committees, Groups and Panels of the Council and their terms of reference is a matter reserved to the full Council. The proposals within the Report are lawful and within the full Council's remit.

7. Resource Comments:

It is anticipated that adoption of the revised scrutiny arrangements recommended in the report will not place any additional financial burden on the relevant budgets which fund the scrutiny process.

8. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

A report from the Review of Scrutiny Working Group was considered by the Overview and Scrutiny Management Committee on 24 November 2016, when the Committee supported the changes recommended in this report.

Two members questioned whether the proposed Environment, Economy and Transport Scrutiny Committee would have sufficient capacity to be able to handle the combined workload. It was confirmed that the workload of the three existing scrutiny committees had been reviewed by the Working Group and it had been accepted that there would be a need to holistically review the workload to make sure it was manageable. The need for effective prioritisation was also highlighted. It was felt the benefits of bringing the three areas together would include better joined up working and reduction in duplication.

The Overview and Scrutiny Management Committee also recommended that a review of the new arrangements be included as part of the recommendations.

d) Policy Proofing Actions Required

n/a

9. Appendices

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| These are listed below and attached at the back of the report | |
| Appendix A | Scrutiny-Executive Protocol - Developing Effective Relationships Between the Executive and Scrutiny |
| Appendix B | Proposed New Scrutiny Structure |
| Appendix C | Prioritisation Toolkit |
| Appendix D | Progress Summary on the Recommendations in A Review of Scrutiny at Lincolnshire County Council by Dr Stuart Young |

10. 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 |
|---|---|
| Report to Overview and Scrutiny Management Committee 24 November 2016 | http://lincolnshire.moderngov.co.uk/ieListDocuments.aspx?CId=122&MId=4474&Ver=4 |
| Dr Stuart Young's report to Council 18 December 2015 | http://lincolnshire.moderngov.co.uk/ieListDocuments.aspx?CId=120&MId=4201&Ver=4 |

This report was written by Nigel West, who can be contacted on 01522 552840 or nigel.west@lincolnshire.gov.uk.

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