

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

Report to:	Overview and Scrutiny Management Board
Date:	30 April 2020
Subject:	Scrutiny Review Report: <i>Overview and Scrutiny at Lincolnshire County Council</i>

Summary:

On 29 August 2019, this Board approved the terms of reference of a review by Scrutiny Panel B of overview and scrutiny, following the publication of revised statutory guidance by the Secretary of State for Housing, Communities and Local Government in May 2019.

The Board is requested to consider the draft report attached (Appendix A). Following this and subject to the Board's approval the report will be submitted to the Council's Executive.

Actions Required:

The Board is invited to consider approving the draft final report (attached at Appendix A) as the final report on Overview and Scrutiny at Lincolnshire County Council.

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, which replaced the previous statutory guidance from 2006. The Ministry has stated 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 guidance is available at the following link:

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

Lincolnshire's Current 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. Eight scrutiny committees were established in accordance with the Local Government Act 2000, which in a standard year, hold 66 meetings between them. In addition, in-depth reviews are undertaken by Scrutiny Panels A and B. There is also the Lincolnshire Safeguarding Boards Scrutiny Sub-Group, and the Corporate Parenting Panel is notionally part of the overview and scrutiny function, reporting directly to the County Council meeting.

Content of the Review

The terms of reference of the review were set by this Board on 29 August 2019, and are set out in the attached report. In addition to meeting on five occasions, members of Scrutiny Panel B attended two conferences, one national and one regional.

Implementation of Recommendations

There are eight recommendations in the report, some of which, if accepted, would need a decision by the County Council. Others are more operational, and could be implemented by officers, with oversight from the Overview and Scrutiny Management Board and the Executive. However, in the first instance, the views of the Executive will be sought on all eight recommendations, prior to any further action.

2. Conclusion

The Board is requested to consider the attached report, including the eight recommendations.

3. Consultation

This is not a direct consultation item.

4. Appendices

These are listed below and attached at the back of the report	
Appendix A	Review of Overview and Scrutiny – Draft Final Report by Scrutiny Panel B

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

OVERVIEW AND SCRUTINY AT LINCOLNSHIRE COUNTY COUNCIL

Report by Scrutiny Panel B on behalf of
the Overview and Scrutiny Management Board

March 2020

1. Executive Summary

The catalyst for this review of the Council's overview and scrutiny function was the publication of statutory guidance by the Ministry of Housing, Communities and Local Government in May 2019. This provided an opportunity to assess the Council's arrangements, which had been introduced in May 2017, following two earlier detailed reviews.

Scrutiny Panel B, working on behalf of the Overview and Scrutiny Management Board, has made eight recommendations. These are referenced R1 to R8 throughout this report. Some of the recommendations, such as R1 and R4, if accepted, would need a decision by the County Council. Others, such as R5 and R6, are more operational in their nature, and could be implemented by officers, with oversight from the Overview and Scrutiny Management Board and the Executive. However, in the first instance, the views of the Executive are sought on all eight recommendations, prior to any further action.

Lincolnshire has had an *executive – scrutiny protocol* in place since 2017. Some revisions are proposed to this protocol, not only to align with the statutory guidance, but also to emphasise the early involvement provisions, as well as reflecting existing good practice (R1). There are areas where deviations from the statutory guidance are also proposed (R2).

No changes are recommended to the Council's existing overview and scrutiny committee structure (R3), other than a proposal to discontinue the Safeguarding Boards Scrutiny Sub Group (R4), with its functions allocated to the Adults and Community Wellbeing Scrutiny Committee, and the Children and Young People Scrutiny Committee, as necessary.

Scrutiny committee meeting time is a valuable resource, typically involving eleven councillors and several officers for up to three hours per meeting. Following evidence that 31% of items at committees lead to a minute where the item is only 'noted', with no other action or comment recorded, there is a proposal (R5) for measures to reduce, but not completely eliminate, this type of outcome.

Again, on the basis that meeting time is a valuable resource, there are proposals for training and development (R6), so that scrutiny committee members can make the most of their meeting time. These training and development proposals are both generic (for example, questioning skills) and service specific (each committee developing their knowledge of the area under its remit).

There is satisfaction with the level of support provided for the overview and scrutiny function from the Council's officers, with two requests (R7) on developing the media's understanding of overview and scrutiny; and raising its profile generally. Finally, there is a recommendation (R8) on the involvement of external organisations. This follows the statutory guidance and asks for consideration to be given to including in some contracts a provision requiring certain contractors to attend and provide information at committees, if requested. This would not apply to all contracts, but those impacting most on the services to the public and the Council's overall efficiency.

Recommendations

- (R1) That a revised Executive-Scrutiny protocol be approved, as set out in Appendix A to this report.
- (R2) That the schedule of deviations from the statutory guidance, as set out in Appendix B to this report, be approved.
- (R3) That no changes be made to the existing committee structure for the overview and scrutiny function, except for the proposal set out in (R4) below.
- (R4) That the Safeguarding Boards Scrutiny Sub Group be discontinued, with its responsibilities for the review and scrutiny of the Lincolnshire Safeguarding Adults Board transferring to the Adults and Community Wellbeing Scrutiny Committee; and its responsibilities for the review and scrutiny of the Lincolnshire Safeguarding Children Partnership transferring to the Children and Young People Scrutiny Committee.
- (R5) That the chairmen of overview and scrutiny committees be requested to consider the actions set out in the table below to reduce the number of items where the only outcome recorded in the minutes was 'noted'.

Suggestions for Reducing the Number of 'Noted' Only Items	
Stage of Report / Item	Possible Action
Agenda Planning / Pre-Publication	The Chairman to consider circulating an item as a briefing paper on email to members of the committee
	The Chairman to encourage report authors to include genuine actions other than 'noting the report and the information presented'. This could include report authors considering whether there are specific items or questions on which the Committee could provide advice.
Post-Publication / Prior to Meeting	As part of their preparation for the meeting, the Chairman to consider alternative outcomes to noting the report. Even where a report author has recommended 'noting the report and the information presented', the relevant Chairman or committee could seek to record their advice, or an additional action.
At Meeting	The Chairman and the Committee to consider alternative outcomes to noting the report.

- (R6) That the offer of training and development for scrutiny councillors, either as part of the councillor induction programme or as part of continuous development, be given a greater priority by leaders of the political groups, with the programme including the following:**
- (a) Skills Training – chairing skills, questioning skills, financial scrutiny training, performance management scrutiny training and speed reading.**
 - (b) Committee / Service Specific Training – periodic offer of training to committee members on specific service areas.**
 - (c) Attendance at Conferences – for example, East Midlands Councils and the Centre for Public Scrutiny.**
 - (d) Reference Materials – statutory and non-statutory guidance.**
- (R7) (a) That the level of support provided for the overview and scrutiny function by the Council's officers be endorsed.**
- (b) That the Head of Communications and Engagement be requested to continue working with local journalists to improve their understanding of overview and scrutiny and to consider actions to raise the profile of overview and scrutiny, including the possibility of more use of social media and media releases in advance of the meeting.**
- (R8) That the existing level of involvement of and the provision of information by external organisations to overview and scrutiny committees be endorsed, with the following recommendations:**
- (a) the Statutory Scrutiny Officer be requested to co-ordinate improvements in the quality of involvement of external organisations by developing guidance and offering support, where appropriate; and**
 - (b) the Council's procurement officers be requested to make a judgement whether a particular contract, in terms of its size and impact, should include a clause requiring the attendance and the provision of information by the contractor to overview and scrutiny committees, and be guided by the following three principles: -**
 - (i) The inclusion of a clause in any contract requiring attendance and the provision of information by a contractor to an overview and scrutiny committee would be the exception, rather than the rule, as the County Council's officers will always be directly accountable for the delivery and the performance of any service which is subject to contract.**

- (ii) Where clauses are included in contracts, all requests for attendance and information from an overview and scrutiny committee would be made through the County Council's officers, rather than being submitted directly by the overview and scrutiny committee to the contractor.**

- (iii) Irrespective of whether a clause is included in any contract, any overview and scrutiny committee may, via the County Council's officers, invite the attendance of a contractor at an overview and scrutiny committee, although it should be noted that there would be no obligation to attend.**

2. Terms of Reference

On 29 August 2019, the Overview and Scrutiny Management confirmed that Scrutiny Panel B's review of overview and scrutiny, with the following 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.

Exclusion

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 statutory guidance will be considered during this review.

For this review, Scrutiny Panel B comprised Councillors Mrs Angela Newton (Chairman), Tony Turner, MBE (Vice Chairman), Bob Adams, Colin Matthews, Robert Parker, Stephen Roe, Mark Whittington and Ray Wootten. Councillor Barry Young was also invited to each meeting, as an advisor representing the Executive. The Panel held its first meeting on 30 September 2019 and its final meeting on 28 February 2020.

3. Background

The County Council's existing overview and scrutiny structure was introduced at the beginning of the current Council term in May 2017. This followed an independent report by Dr Stuart Young, the Executive Director of East Midlands Councils, which was presented to the County Council in December 2015, and a councillor working group review, which was presented to the County Council on 16 December 2016.

In line with its approved terms of reference, the following issues have been explored as part of this review:

- Statutory Guidance, including the Executive – Scrutiny Protocol.
- Structure and Activity
- Outcomes from Overview and Scrutiny
- Training and Development
- Support for Overview and Scrutiny
- Involvement of External Organisations

Statutory Provisions

While the statutory guidance has been a key topic for this review, the statute relating to overview and scrutiny has remained unchanged in recent years and are principally found in:

- (1) *General Overview and Scrutiny* - Sections 9F – 9FI of the Local Government Act 2000. (These sections were inserted into the Local Government Act 2000 by the Localism Act 2011, and replaced the original provisions in the 2000 Act.). This includes section 9FH which contains specific provisions on flood and water management scrutiny.
- (2) *Health Overview and Scrutiny* - Section 244 of the National Health Services 2006 (as amended by Section 190 of the Health and Social Care Act 2012) and the Regulations 20-34 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013.

Terminology

In this report, the term 'overview and scrutiny committee' has been used interchangeably with the term 'scrutiny committee'.

Lincolnshire County Council operates a leader and cabinet model of governance, but refers to its cabinet as the Executive, and to its cabinet members as Executive Councillors. The statutory guidance refers to cabinet and cabinet members

4. Statutory Guidance

In May 2019, *Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities* was issued by the Ministry of Housing, Communities and Local Government. This followed 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 recommended that the statutory guidance on overview and scrutiny (last issued in 2006) should be updated.

Contents of Statutory Guidance

The 2019 statutory guidance supersedes the previous 2006 guidance and includes the following sections:

Chapter 1	Introduction and Context
Chapter 2	Culture
Chapter 3	Resourcing
Chapter 4	Selecting Committee Members
Chapter 5	Power to Access Information
Chapter 6	Planning Work
Chapter 7	Evidence Sessions
Annex 1	Creating an Executive-Scrutiny Protocol
Annex 2	Engaging Independent Technical Advisers
Annex 3	Approaching an External Organisation to Appear before a Committee

The full guidance is available at the following link:

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

Aim and Status of the Guidance

The guidance includes the following statements:

"This guidance seeks to ensure local authorities and combined 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."

"This is statutory guidance from the Ministry of Housing, Communities and Local Government. Local authorities and combined authorities must have regard to it when exercising their functions. The phrase 'must have regard',

when used in this context, 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."

Throughout the guidance, there is acknowledgement that what works in one authority may not work in another. This means that the guidance is not as prescriptive, as it could be.

Executive – Scrutiny Protocol

Annex 1 of the statutory guidance lists the key elements which should be contained within an executive – scrutiny protocol. Lincolnshire County Council adopted its own protocol in December 2016 and most of the provisions in statutory guidance had already been covered by the 2016 protocol or are already set out in the Constitution.

Statutory Guidance	Comment
<p>An executive-scrutiny protocol can deal with the practical expectations of scrutiny committee members and the executive, as well as the cultural dynamics.</p> <p>Workshops with scrutiny members, senior officers and Cabinet can be helpful to inform the drafting of a protocol. An external facilitator can help bring an independent perspective.</p> <p>Councils should consider how to adopt a protocol, e.g. formal agreement at scrutiny committee and Cabinet, then formal integration into the Council's constitution at the next Annual General Meeting.</p>	<p>On 16 December 2016, the County Council adopted an executive – scrutiny protocol: <i>Developing Relationships Between the Executive and Overview and Scrutiny</i>.</p> <p>Prior to the adoption of the 2016 protocol, drafts had been considered by the Constitution Review Working Group, the Overview and Scrutiny Management Committee and the Executive.</p>
<p>The protocol, as agreed, may contain sections on:</p> <ul style="list-style-type: none"> • The way scrutiny will go about developing its work programme (including the ways in which senior officers and Cabinet members will be kept informed); 	<p>Section E [Setting the Agenda] of the proposed protocol in Appendix A includes revised provisions on:</p> <ul style="list-style-type: none"> • the importance of relationships (as opposed to meetings), which is supported by written evidence from three chairmen; and • the role of the Overview and Scrutiny Management Board reviewing the work programmes of scrutiny committees on a quarterly basis.

Statutory Guidance	Comment
<ul style="list-style-type: none"> The way in which senior officers and Cabinet will keep scrutiny informed of the outlines of major decisions as they are developed, to allow for discussion of scrutiny's potential involvement in policy development. This involves the building in of safeguards to mitigate risks around the sharing of sensitive information with scrutiny members; 	<p>Section A [Early Involvement in Policy Development] of the proposed protocol in Appendix A includes revised provisions on:</p> <ul style="list-style-type: none"> recognition of the professional expertise of the paid service in developing policy; and information sharing and trust.
<ul style="list-style-type: none"> A strengthening and expansion of existing parts of the code of conduct that relate to behaviour in formal meetings, and in informal meetings; 	<p>On 11 December 2019, the County Council adopted a revised members' code of conduct. It is not proposed to set out separate conduct provisions in this protocol. However, it is proposed to include a new Section F [Code of Conduct], which references the members' code of conduct, in particular the provisions relating to respect.</p>
<ul style="list-style-type: none"> Specification of the nature and form of responses that scrutiny can expect when it makes recommendations to the executive, when it makes requests to the executive for information, and when it makes requests that Cabinet members or senior officers attend meetings; and 	<p>Section 11 of the Overview and Scrutiny Procedure Rules in the Council's Constitution sets out the arrangements for the Executive responding to reports from overview and scrutiny committees. This incorporates the statutory requirement for a response from the Executive or the Executive Councillor within two months.</p> <p>Attendance by members of the Executive at overview and scrutiny committees is covered by Section D [Attendance at Meetings of Overview and Scrutiny Committees], which includes a proposed addition relating to diary invitations being sent to each relevant executive councillor and executive support councillor.</p>

Statutory Guidance	Comment
<ul style="list-style-type: none"> Confirmation of the role of the statutory scrutiny officer, and Monitoring Officer, in overseeing compliance with the protocol, and ensuring that it is used to support the wider aim of supporting and promoting a culture of scrutiny, with matters relating to the protocol's success being reported to full Council through the scrutiny Annual Report 	<p>This is covered by Section G [County Council Officers] of the proposed protocol in Appendix A. This includes an additional provision on the role of the monitoring officer.</p> <p>There is also a proposal in Appendix A for a new section H [Annual Report].</p>

Early Involvement of Overview and Scrutiny in Policy Development

Section A of the proposed protocol in Appendix A covers early involvement in policy development, which has been a recurring topic at meetings of the Panel.

The provision in the County Council's Constitution (Paragraph 3 of the Budget and Policy Framework Procedure Rules) is reproduced below:

"3. PROCESS FOR DEVELOPING THE POLICY FRAMEWORK

- (a) The Executive publicise by including in the Forward Plan published at the Council's offices and on its website, a timetable in accordance with which it will make proposals to the Council for the adoption or amendment of any plan or strategy that forms part of the Policy Framework.
- (b) Within this timetable the relevant Overview and Scrutiny Committees will conduct such research, consultation with stakeholders and investigations as are necessary to enable it to develop proposals for the content or amended content of the relevant plan or strategy.
- (c) The relevant Overview and Scrutiny Committee will present recommendations as to the content or amended content of the relevant plan or strategy to the Executive in accordance with the timetable.
- (d) The Executive will finalise its proposals for the Council to consider having taken into account the proposals from the relevant Overview and Scrutiny Committees. The Executive's report to Council will show its response to those proposals."

These provisions are limited to the policies and strategies forming part of the Council's policy framework.

Other Aspects of the Statutory Guidance

The Panel has concluded that the overview and scrutiny function follows the statutory guidance. However, there are three particular parts of the guidance, where the Panel believes that documenting reasons for deviating from the guidance would be appropriate. The three sections are:

- submitting each scrutiny review to the Council meeting;
- the appointment of members to serve on committees; and
- the appointment of chairmen to committees.

Attached at Appendix B is a schedule, which sets out the reasons for deviating from the guidance in these instances.

Recommendations

- (R1) That a revised Executive-Scrutiny protocol be approved, as set out in Appendix A to this report.**
- (R2) That the schedule of deviations from the statutory guidance, as set out in Appendix B to this report, be approved.**

5. Structure and Activity

Overview and Scrutiny Committees

As stated above, the current overview and scrutiny structure was implemented with effect from May 2017. Under this structure, eight overview and scrutiny committees hold their meetings in public in accordance with the Local Government Act 1972 and are for the purposes of Section 9F of the Local Government Act 2000, 'overview and scrutiny committees'.

Committee / Board	Scheduled Meetings Each Year	Membership (*) = non-voting (#) = voting on education matters only
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 ¹	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.

An analysis of the meetings of the above committees is set out in Appendix B. This shows that a typical meeting of a scrutiny committee lasts two hours and 36 minutes, and considers between four and five substantive items. Typically an agenda and report pack comprises 118 pages, with each agenda item averaging 35 minutes in length.

¹ The Public Protection and Communities Scrutiny Committee also functions as the crime and disorder committee, pursuant to Section 19 of the Police and Justice Act 2006.

Scrutiny Panel A and Scrutiny Panel B

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)

Reviews have been taking longer than the planned six months to complete. Some topics could merit a review in a shorter timescale, but the nature of the topic could also extend the length of the review.

The chairmen and vice chairmen of each panel are standing members, with the remaining six members appointed for each review. Once a review topic is determined, the process of recruiting panel members begins. There is evidence that recruiting members to serve on scrutiny panels has proved difficult and has delayed the start of reviews.

The Panel is satisfied with the arrangements for in-depth reviews through Scrutiny Panel A and Scrutiny Panel B, but would like more effort on encouraging councillors to participate in the panels, and for panel membership to be confirmed as soon as possible.

Involvement of Councillors in Overview and Scrutiny

There are 85 places for county councillors across the eight committees. Each scrutiny panel has up to eight places, giving a total of 101 places in all. As the eight members of the Executive cannot serve on overview and scrutiny committees and panels, that leaves 62 councillors eligible to fill the 101 places. As of February 2020, 45 out of the 62 eligible councillors filled these places, meaning that 73% of eligible councillors participate in overview and scrutiny.

The Panel acknowledges that there are various other demands on councillor time, which can include one or more of the following:

- undertaking an executive support councillor role;
- membership of other committees, such as the Audit Committee, the Pensions Committee and the Planning and Regulation Committee;
- work commitments; or
- district council commitments.

Corporate Parenting Panel

Following a decision by the County Council on 17 May 2019, the Corporate Parenting Panel is now scheduling six meetings per year, which are open to the public. The programme of open meetings began in July 2019 and the Panel is due to report directly to the County Council on an annual basis (rather than to the Children and Young People Scrutiny Committee). These changes were made to increase awareness among all 70 members of their role as corporate parents and thus to reflect the importance of corporate parenting. The Corporate Parenting Panel comprises seven county councillors and five other members.

The Corporate Parenting Panel remains part of the overview and scrutiny function (as set out in Article 6.11 of the Constitution), although the changes to the reporting arrangements in 2019 have in effect put the Corporate Parenting Panel on a special footing.

Safeguarding Boards Scrutiny Sub Group

The Council has operated dedicated sub group arrangements for scrutinising adults and children safeguarding since 2007, initially through two sub groups (one each for adults and children), and since 2012 through a single sub group. However, there is no statutory requirement for a dedicated sub group, and no evidence can be found of any other council operating such a dedicated arrangement.

The Panel has considered an alternative approach, whereby the Adults and Community Wellbeing Scrutiny Committee and the Children and Young People Scrutiny Committee would assume responsibility between them for the roles undertaken by the Sub Group. The benefits of this alternative approach are as follows:

- (1) This allows each committee to make links between safeguarding and other council activities under its remit.
- (2) Reports and action plans from safeguarding adult review reports, child death review reports and local child safeguarding practice reviews could be considered in public, if required. Where information relates to a particular individual or meets other criteria, the appropriate provisions under the Local Government Act 1972 could be invoked to exclude the press and the public.
- (3) Domestic homicide reviews could also be reported to the Adults and Community Wellbeing Scrutiny Committee, if this was thought to be appropriate.
- (4) Annual reports from the Lincolnshire Safeguarding Children Partnership and the Lincolnshire Safeguarding Adults Board could be considered by the respective scrutiny committee.
- (5) Scrutiny of the Lincolnshire Safeguarding Children Partnership and the Lincolnshire Safeguarding Adults Board would be held in public.

- (6) The statutory guidance requirements on independent scrutiny for both the Lincolnshire Safeguarding Adults Board and the Lincolnshire Safeguarding Children Partnership would be supported.

The Panel reviewed the arguments for retaining the Safeguarding Boards Scrutiny Sub Group, which included the involvement of partners, such as the NHS and the Police and Crime Commissioner, in the scrutiny role. In addition, the Sub Group's private meetings facilitated confidential discussion. These arguments were also supported by a statement submitted on behalf of the Sub Group. The Panel concluded that the Sub Group should be discontinued and its activities re-allocated to the respective scrutiny committee. This was supported by the Chairman of the Adults and Community Wellbeing Scrutiny Committee. As this would require a change in the Council's constitution, a decision of the County Council on R4 would be required.

Recommendations

- (R3) **That no changes be made to the existing committee structure for the overview and scrutiny function, except for the proposal set out in (R4) below.**
- (R4) **That the Safeguarding Boards Scrutiny Sub Group be discontinued, with its responsibilities for the review and scrutiny of the Lincolnshire Safeguarding Adults Board transferring to the Adults and Community Wellbeing Scrutiny Committee; and its responsibilities for the review and scrutiny of the Lincolnshire Safeguarding Children Partnership transferring to the Children and Young People Scrutiny Committee.**

6. Outcomes from Overview and Scrutiny

The Panel has also considered statistics on the outcomes of overview and scrutiny committees, based on an analysis of minutes for the first two completed years of the current council term (2017-18 and 2018-2019). During these two years 563 items were considered by the Council's eight overview and scrutiny committees, which is evidence of a significant level of activity.

For the purposes of the analysis of the minutes, only one outcome per committee item has been counted. Only the principal outcome has been counted, where the minutes record more than one outcome. This means that where a committee has provided some form of 'feedback' or recorded another action, this has always been counted in the analysis. The 'noted only' outcomes relate to items where no other action has been recorded in the minutes as part of the resolution.

'Feedback' Outcomes

The Panel has found that 51% of items led to some form of feedback being recorded in the minutes. For the purpose of the analysis, feedback items ranged from making a formal recommendation to the decision maker (usually a pre-decision scrutiny item) to recording the satisfaction, endorsement or support of the committee for a particular approach. This means that over the two years 287 items led to some form of feedback from an overview and scrutiny committee, with 90 of these comprising pre-decision scrutiny items.

There is some variation between scrutiny committees, with the highest number of feedback items being 66%, and the lowest 22%.

'Noted Only' Outcomes

The Panel has found that 31% of items led to a 'noted only' outcome as recorded in the minutes, with some significant variations between overview and scrutiny committees. For example, at one scrutiny committee 69% of items led to a 'noted only' outcome, while 12% was lowest recorded percentage at another committee.

One reason for this may be that in some instances, an individual Chairman might need to be more explicit on the outcome of a particular item. Sometimes a committee may have considered an item for a significant amount of time, and in spite of this the item is only noted. This would seem to be somewhat an anti-climax. On the other hand, there may be certain items on a committee agenda, which are genuinely for noting only. If an agenda is overloaded, an item purely for information might be circulated on an email as an alternative. However, this means that it would not be recorded as part of the Committee's official record.

The Panel has concluded that the 31% of items that lead to a 'noted' only outcome is too high and devalues the scrutiny process. The Panel has put forward several possible actions to reduce this number.

Suggestions for Reducing the Number of 'Noted' Only Items	
Stage of Report	Possible Action
Agenda Planning / Pre-Publication	The Chairman to consider circulating an item as a briefing paper on email to members of the committee
	The Chairman to encourage report authors to include genuine actions other than 'noting the report and the information presented'. This could include report authors considering whether there are specific items or questions on which the Committee could provide advice.
Post-Publication / Prior to Meeting	As part of their preparation for the meeting, the Chairman to consider alternative outcomes to noting the report. Even where a report author has recommended 'noting the report and the information presented', the relevant Chairman or committee could seek to record their advice, or an additional action.
At Meeting	The Chairman and the Committee to consider alternative outcomes to noting the report.

Corporate Peer Challenge Review (September 2019)

A corporate peer challenge review of Lincolnshire County Council was undertaken on behalf of the Local Government Association's report in September 2019. The following statement on overview and scrutiny is found in section 4.3 of the peer challenge review report (*Organisational Leadership and Governance*):

"Scrutiny arrangements are extensive and in some areas, such as health, are effective in holding decision-makers to account. Nevertheless, it is difficult to find examples within the Council where significant change or improvement originates from scrutiny activity. Furthermore, Scrutiny is weakened by a belief that 'the Exec will do what it wants anyway'. Scrutiny could be developed so that it is able to dig deeper to analyse trends and patterns."

The Panel argues that many aspects of overview and scrutiny activity are worthwhile, irrespective of whether there is an identifiable improvement. In some instances, the benefits are less formal and not necessarily documented. The Panel believes that focusing on whether scrutiny has resulted in significant changes or improvements is too narrow an approach. Furthermore, the legislation imposes no requirement on overview and scrutiny to meet this or any other standard. The Panel, however, accepts that improvements can be made, which are proposed in several recommendations in this report. For example, R1 sets out proposals for revising the executive-scrutiny protocol and R5 proposes reducing the number of items 'noted only' at meetings.

Ofsted Inspection of Children's Social Care Services (April – May 2019)

On 11 June 2019, Ofsted published its inspection report on Lincolnshire's children's social care services and made an overall finding of 'outstanding'. The report made the following reference to scrutiny:

"Effective scrutiny and engagement of elected members in understanding services for children has successfully maintained and increased investment in early help and safeguarding services that appropriately deliver responsive support to build on families' strengths." (*Paragraph 38 – extract*)

Recommendation

(R5) That the chairmen of overview and scrutiny committees be requested to consider the actions set out in the table below to reduce the number of items where the only outcome recorded in the minutes was 'noted'.

Suggestions for Reducing the Number of 'Noted' Only Items	
Stage of Report	Possible Action
Agenda Planning / Pre-Publication	The Chairman to consider circulating an item as a briefing paper on email to members of the committee
	The Chairman to encourage report authors to include genuine actions other than 'noting the report and the information presented'. This could include report authors considering whether there are specific items or questions on which the Committee could provide advice.
Post-Publication / Prior to Meeting	As part of their preparation for the meeting, the Chairman to consider alternative outcomes to noting the report. Even where a report author has recommended 'noting the report and the information presented', the relevant Chairman or committee could seek to record their advice, or an additional action.
At Meeting	The Chairman and the Committee to consider alternative outcomes to noting the report.

7. Training and Development

Induction

At the beginning of each County Council term, an induction session on overview and scrutiny is held for all county councillors. The Panel expects that the induction programme for councillors in 2021 will make similar provision, and recommends more emphasis on the importance of overview and scrutiny in the programme.

Continuous Development of Skills

In addition to the induction programme, the Panel recommends there should be training on specific topics such as:

- Financial Scrutiny Training and Understanding Budgets. Local government budgets can be challenging for people with no direct expertise. The inclusion of training should build confidence.
- Questioning Skills. This should provide assurance to councillors that they are following the right approach in their questioning.
- Chairing Skills. This training should focus on time management at meetings, summing up each item to some form of conclusion, providing a positive experience for all on the committee, as well as building relationships between the executive and scrutiny.
- Performance Management Training. A new performance management framework is being developed to support the recently adopted Council's corporate plan. There may be a need for training on this, depending on the approach adopted.
- Speed Reading. The average length of an overview and scrutiny committee report pack is 118 pages.

Committee / Service Specific Training

This Panel has made comparisons with the Audit Committee, the Pensions Committee and the Planning and Regulation Committee, where training is required before a member can serve on one of these committees. The Panel has explored compulsory training for councillors on scrutiny committees, but concluded that it would not be practical to adopt a compulsory approach across any of the scrutiny committees. However, the Panel urges that each overview and scrutiny committee should develop its own members through specific training on the services within its remit, both at the beginning of the County Council term; and continuously depending on each committee's specific requirements.

Conferences

The Panel has found that attendance at regional or national conferences can be beneficial. For example, during the period of the review, both East Midlands Councils and the Centre for Public Scrutiny have held conferences specifically on the overview and scrutiny function, which have been attended by members of the Panel.

Reference Materials

In addition to the statutory guidance, there are a number of good practice guides. For example, the Centre for Public Scrutiny has published:

- The Good Scrutiny Guide (*Ed Hammond – June 2019, 62 pages*)
- Taking Scrutiny Seriously - Parity of Esteem between Scrutiny and the Executive: a Short Guide for Local Government Cabinet Members and Senior Officers (*Jenny Manchester – February 2020, 12 pages*)
- Risk and Commercialisation - A Guide for Local Scrutiny Councillors (*Ed Hammond – February 2019, 24 pages*)

In addition, the Local Government Association has published: -

- A Councillor's Workbook on Scrutiny (*July, 2017, 32 pages*)

Recommendation

(R6) That the offer of training and development for scrutiny councillors, either as part of the councillor induction programme or as part of continuous development, be given a greater priority by leaders of the political groups, with the programme including the following:

- (e) Skills Training – chairing skills, questioning skills, financial scrutiny training, performance management scrutiny training and speed reading.**
- (f) Committee / Service Specific Training – periodic offer of training to committee members on specific service areas.**
- (g) Attendance at Conferences – for example, East Midlands Councils and the Centre for Public Scrutiny.**
- (h) Reference Materials – statutory and non-statutory guidance.**

8. Resourcing for Overview and Scrutiny

General Resourcing

The County Council operates an extensive overview and scrutiny function. In 2018-19, the eight overview and scrutiny committees held 67 meetings between them, all of which were open to the public. These meetings considered 299 items, and they were in session for a total of 172 hours and 25 minutes. The total length of all these agenda and reports was 8,362 pages.

All of the 299 items required preparation in advance, in most cases with the publication of a report at least five clear working days in advance of the meeting itself. All reports need to be drafted, fact-checked, proof-read and compiled into an agenda pack, for release into the public domain. This in itself represents a considerable resource.

In addition to this, there is the resourcing and support required for Scrutiny Panels A and B, the Corporate Parenting Panel and the Safeguarding Boards Scrutiny Sub Group, as well as for workshop meetings, training sessions, visits etc.

The Panel is satisfied with the level of support provided from officers across the County Council to the overview and scrutiny function and would wish this to continue.

Democratic Services

Lincolnshire operates a 'specialist officer resource model' with a scrutiny team of three officers, under the leadership of the Statutory Scrutiny Officer, supporting the various committees and the other panels. These officers are often the first point of contact for chairmen and committee members. Together with the democratic services officers, they manage the work programmes of the scrutiny committees and work closely with colleagues across the Council, on the content of reports and how to meet the requests of each committee. Scrutiny officers can also liaise with relevant executive councillors, for example on behalf of the chairmen. Whilst it is important that there are good relationships between scrutiny officers and executive councillors and contributing officers, we heard evidence that it is also important that the scrutiny officers are not too close in these relationships. It has been suggested that the scrutiny officer role should be developed to offer assistance to councillors in framing their questions for officers, as part of the preparation for meetings, if requested.

Democratic services officers' responsibilities also include the statutory requirements of each meeting: ensuring agenda and reports are issued with proper legal notice; ensuring meetings operate in accordance with the law and the Constitution; and producing a statutory record in the form of minutes. Democratic services officers are also responsible for practical arrangements such as the management of the meeting.

The Panel has concluded that it is satisfied with these arrangements.

Communications and Engagement

Most often the publication of an item on an overview and scrutiny committee agenda is the first time the matter comes into the public domain, as all agenda and reports are circulated to the local media on the day they are published. To prepare for media queries, the Communications Team is involved in agenda planning meetings and kept up-to-date on changes to each agenda. The Team also prepares media releases for certain items in advance. This approach is viewed as good practice and should continue.

In cases where there has been no advance media release, the first significant input from the Communications Team is usually in response to media queries, when a report is published. The second significant input occurs at or just following the meeting, when the media may be seeking information on the outcome.

The Panel accepts that the nuances of the overview and scrutiny function are difficult to explain to the local media. For example, there are several instances where it is reported by the media that a scrutiny committee is due to make or has made a decision, when in reality the committee is considering the merits of a particular decision, rather than making it. The Panel discussed these difficulties with the Head of Communications and Engagement, who agreed to continue working with local journalists to improve their understanding of overview and scrutiny.

There are similar difficulties explaining the overview and scrutiny function to members of the public. Making a comparison between local authority scrutiny committees and parliamentary select committees helps in some respects, but this will not be clear to everybody.

Holding committee meetings away from the County Council offices is means of engaging more members of the public. However, it should be noted that committee meetings are open to the public, rather than public meetings, so direct participation by members of the public is not automatic.

The Panel is pleased with the good practice which it has identified. To complement this, the Panel suggests that social media is one means of raising the profile of scrutiny, for example a facebook page or twitter feed for overview and scrutiny, or even a page for each scrutiny committee. Pro-active media releases could also be used more often.

Recommendation

- (R7) (a) That the level of support provided for the overview and scrutiny function by the Council's officers be endorsed.**
- (b) That the Head of Communications and Engagement be requested to continue working with local journalists to improve their understanding of overview and scrutiny and to consider actions to raise the profile of overview and scrutiny, including the possibility of more use of social media and media releases in advance of the meeting.**

9. Involvement of External Organisations

Specific Powers – Health Scrutiny Committee

There are specific powers in the regulations enabling the Health Scrutiny Committee to require the attendance of commissioners and providers of NHS-funded services and there is evidence of significant engagement, including NHS England (for the commissioning of specialised health services and dental services) and the contractor for the provision of non-emergency patient transport. In addition to this, other organisations not covered by the regulations have engaged with the Committee, such as NHS Improvement, Health Education East Midlands and the Lincoln Medical School.

Specific Powers – Crime and Disorder Committee

The Public Protection and Communities Scrutiny Committee sits at least twice per year as the crime and disorder committee, pursuant to Section 19 of the Police and Justice Act 2006. The Committee may rely on powers to require the Police, district councils, the providers of probation services, as well as a number of 'co-operating bodies', to attend and provide information. When sitting as the crime and disorder committee, representatives of the Lincolnshire Police and the Safer Lincolnshire Partnership have attended and participated at meetings of the Public Protection and Communities Scrutiny Committee.

General Powers – All Committees

Under Regulation 4 of the Local Authorities (Overview and Scrutiny Committees) (England) Regulations 2012, overview and scrutiny Committees have the power to require the provision of information by certain defined 'partner authorities'. This list is extensive, with the most notable inclusion being the Environment Agency, which engages at each quarterly meeting of the Flood and Water Management Scrutiny Committee.

Apart from the Health Scrutiny Committee, the Flood and Water Management Scrutiny Committee and the Public Protection and Communities Scrutiny Committee (sitting as the crime and disorder committee) the Council's overview and scrutiny committees tend to be internally focused, in other words their terms of reference directs them towards the Council's own services.

Statutory Guidance

Annex 3 of the statutory guidance (*Approaching an External Organisation to Appear before a Committee*) provides some very basic advice on how to approach external organisations, who would not be covered by the statutory requirements to attend and provide information. This section of the guidance would appear to be aimed at scrutiny officers, who would be expected to approach an external organisation requesting their participation and attendance at a committee. There is, however, evidence of many organisations engaging with the scrutiny committees.

Since 2017, there have been numerous examples of attendance and participation by external organisations at overview and scrutiny committees, and some examples are set out below: -

Examples of External Organisations Attending Overview and Scrutiny Committees	
Committee	Organisation
Adults and Community Wellbeing Scrutiny Committee	<ul style="list-style-type: none"> • Care Quality Commission • East Lindsey District Council (<i>lead provider of the Wellbeing Service</i>) • Libertas (<i>provider of re-ablement service</i>)
Children and Young People and Scrutiny Committee	<ul style="list-style-type: none"> • Lincolnshire Parent Carer Forum
Environment and Economy Scrutiny Committee	<ul style="list-style-type: none"> • Tenants of County Council Business Centres
Highways and Transport Scrutiny Committee	<ul style="list-style-type: none"> • East Midlands Trains • London North Eastern Railway • Network Rail • Transport Connect Ltd

It should be stressed that none of the above organisations would be required to attend under any legislation.

Involvement of Contractors

The statutory guidance includes the following paragraphs (as an unnumbered section at the end of Chapter 5): -

"Following 'the Council Pound'

Scrutiny committees will often have a keen interest in 'following the council pound', i.e. scrutinising organisations that receive public funding to deliver goods and services.

Authorities should recognise the legitimacy of this interest and, where relevant, consider the need to provide assistance to scrutiny members and their support staff to obtain information from organisations the council has contracted to deliver services. In particular, when agreeing contracts with these bodies, authorities should consider whether it would be appropriate to include a *requirement* for them to supply information to or appear before scrutiny committees."

The Scrutiny Panel recognises that any contract is between the County Council, as commissioner, and the relevant contractor. The Panel therefore acknowledges the role of the Council's senior, service and contract managers in overseeing the performance of any contract, and enforcing its provisions. The Panel has concluded that information on the performance of any contractor should be sought in the first instance through the Council's officers, rather than directly from the contractor.

The County Council manages a significant number of contracts (for example there are over 1,000 contracts in adult care) many of which are small in size. For contracts of limited size and impact, it would not be appropriate for a provision requiring attendance and the provision of information. However, for contracts with a greater impact, attendance by the contractor might be beneficial to a committee's consideration of an item. The Overview and Scrutiny Management Board has had frequent participation from the contractor providing the corporate support services contract.

The inclusion of a clause in any contract would be the exception, rather than the rule. All requests for attendance and information would be made through the County Council's officers, rather than a request submitted directly by the overview and scrutiny committee to the contractor. However, this would not prevent any overview and committee, via the County Council's officers, inviting the attendance of a contractor at a scrutiny committee.

It should be noted that the Health Scrutiny Committee for Lincolnshire is guided by its own regulations and statutory guidance², in which there is a strong expectation that health overview and scrutiny committees will engage directly with local providers of NHS-funded health services (as well as commissioners). For example, the Health Scrutiny Committee regularly engages directly with United Lincolnshire Hospitals NHS Trust, Lincolnshire Partnership NHS Foundation Trust, Lincolnshire Community Health Services NHS Trust and the East Midlands Ambulance Service NHS Trust.

Quality of Involvement of External Organisations

Whilst there are numerous examples of external organisations being involved in overview and scrutiny, the Panel has compared the quality of report content produced by some external organisations with the quality of report content from the Council's own officers and concluded that there is often a shortfall of information in reports from these external organisations. Similarly, the Panel has found that the level of participation from some organisations at meetings, in terms of responding to questions from committee members has not met the standards set by the County Council's own officers. The Panel has agreed to request the Statutory Scrutiny Officer to consider developing a programme with these organisations to improve the quality of their involvement.

² Local Authority Health Scrutiny – Guidance to Support Local Authorities and Their Partners to Deliver Effective Health Scrutiny (*Department of Health, June 2014*)

Recommendation

(R8) That the existing level of involvement of and the provision of information by external organisations to overview and scrutiny committees be endorsed, with the following suggestions:

- (a) the Statutory Scrutiny Officer be requested to co-ordinate improvements in the quality of involvement of external organisations by developing guidance and offering support, where appropriate; and**
- (b) the Council's procurement officers be requested to make a judgement whether a particular contract, in terms of its size and impact, should include a clause requiring the attendance and the provision of information by the contractor to overview and scrutiny committees, and be guided by the following three principles: -**
 - (i) The inclusion of a clause in any contract requiring attendance and the provision of information by a contractor to an overview and scrutiny committee would be the exception, rather than the rule, as the County Council's officers will always be directly accountable for the delivery and the performance of any service which is subject to contract.**
 - (ii) Where clauses are included in contracts, all requests for attendance and information from an overview and scrutiny committee would be made through the County Council's officers, rather than being submitted directly by the overview and scrutiny committee to the contractor.**
 - (iii) Irrespective of whether a clause is included in any contract, any overview and committee may, via the County Council's officers, invite the attendance of a contractor at an overview and scrutiny committee, although it should be noted that there would be no obligation to attend.**

10. Background Documents

The following documents have been considered as part of this review:

Document

- (1) Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities (*Ministry of Housing, Communities and Local Government, May 2019*)
- (2) Local Authority Health Scrutiny - Guidance to Support Local Authorities and Their Partners to Deliver Effective Health Scrutiny (*Department of Health, June 2014*)
- (3) The Good Scrutiny Guide (*Centre for Public Scrutiny, June 2019*)
- (4) Pulling It All Together: A Guide to Legislation Covering Scrutiny and Governance in English Local Government (*Centre for Public Scrutiny January 2018*)
- (5) *Review of Scrutiny* report to County Council (*16 December 2016*)
- (6) *A Review of Scrutiny at Lincolnshire County Council [report by Stuart Young, Executive Director of East Midlands Councils]* to County Council (*18 December 2015*)
- (7) Presentations to East Midlands Councils Scrutiny Conference (*4 October 2019*):
 - (a) Culture and Scrutiny by John Cade, Institute of Local Government Studies
 - (b) Dr Stephanie Snape, Director, New Leadership Foundation and LGA Associate
- (8) Presentation to Centre for Public Scrutiny Annual Conference (*4 December 2019*):
 - (a) Seven Principles of Public Life, by Dr Jane Martin CBE, Member of the Committee of Standards in Public Life
 - (b) Smarter Scrutiny – A National Audit Office Perspective, by Abdool Kara, Executive Leader, Local Services, National Audit Office
 - (c) Scrutiny – Creating a New Way, by Camilla de Bernhardt-Lane, Head of Scrutiny, Devon County Council
 - (d) Workshop A – Chairing and Leading Your Scrutiny Function, by Tony Jackson, Centre for Public Scrutiny Associate

- (e) Workshop B – Getting Finance Scrutiny Right in Every Committee, by Ian Parry, Centre for Public Scrutiny
 - (f) Workshop C – Delivering a Brilliant Task and Finish Group, by Dr Dave McKenna, Centre for Public Scrutiny Associate
 - (g) Workshop D – New Scrutiny Models – The Myth and the Reality, by Jacqui McKinlay, Chief Executive, Centre for Public Scrutiny
- (9) Reports by officers submitted to the Scrutiny Panel:
- (a) Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities (Parts One and Two)
 - (b) Analysis of Business at Overview and Scrutiny Committees (Parts One and Two)
 - (c) Resourcing of Scrutiny and Role of the Statutory Scrutiny Officer
 - (d) Legal Queries: (i) Reporting of and Attendance by External Organisations at Scrutiny Meetings; (ii) Extent of County Council Meeting Decision-Making under Executive Arrangements.
 - (e) Scrutiny Review Processes – Scrutiny Panel A and Scrutiny Panel B
 - (f) Role of the Safeguarding Boards Scrutiny Sub Group (Two Reports)
 - (g) Results of Questionnaire for Overview and Scrutiny Chairmen

Proposed Revisions to the Executive – Scrutiny Protocol

PROPOSED REVISIONS HIGHLIGHTED IN RED TYPE



DEVELOPING RELATIONSHIPS BETWEEN THE EXECUTIVE AND OVERVIEW AND SCRUTINY

This protocol sets out practical working arrangements, which will help develop a unity of purpose between the Executive, overview and scrutiny committees as well as the Council's senior managers. This protocol provides a framework for positive relationships between the Executive and overview and scrutiny committees, but its effectiveness is dependent on all councillors and officers accepting the principles underlying this protocol, **in effect an organisational culture which recognises the roles of the Executive, overview and scrutiny committees, and the Council's senior managers.**

The Executive accepts that discharging the Overview and Scrutiny function should be a core responsibility of the Council, with appropriate and meaningful support from the Chief Executive, other members of the Corporate **Leadership Team** ~~Management Board~~, and all the Council's officers.

The Overview and Scrutiny Management **Board Committee** ~~Board~~ accepts that to be effective the scrutiny process must be positive, constructive, independent, fair and open. It should complement the decision-making powers of the Executive and enable the voice and concerns of the public to be heard.

Overview and Scrutiny should be challenging, as its aim is to identify areas for improvement, but the process should not be confrontational or simply a means through which to apportion blame if things go wrong. Overview and Scrutiny will act as a 'critical friend' to the Executive and other decision makers in order to promote better services, policies and decisions. Trust and tolerance are key to the success of this protocol.

Councillor Martin Hill, OBE
Leader of Lincolnshire County Council

Councillor **Robert Parker Pat O'Conner**
Chairman of the Overview and Scrutiny Management **Board Committee**

A. EARLY INVOLVEMENT IN POLICY DEVELOPMENT

Role of the County Council's Paid Service Supporting the Executive

The Council's paid service often initiate the development of policies and use their extensive knowledge and professional expertise to propose policies for the Executive. Based on their knowledge and expertise, officers tend to present a suggested direction of travel to the Executive or the Executive Councillor. This approach is recognised and understood, particularly given the legislative and financial constraints which underlie most services.

However, ~~t~~The Executive would like to involve overview and scrutiny committees at an early stage in the development of new policies or changes to existing policies, or in the development of proposals for any significant changes in service provision. This early involvement extends beyond the provisions in the Constitution on the development of the policy and budget framework³.

When is Early Involvement Appropriate?

Examples of the need for early involvement are when there are issues of a contentious nature, sizeable budgetary implications, an impact on the whole community, or an impact on outside bodies or organisations. ~~There have been many examples of positive early involvement by overview and scrutiny. However, early involvement in every instance of policy development may not be appropriate. This will often be a matter of judgement, and involve discussions between the chairman, the executive councillor and the chief officer. In any discussions, the following questions may be considered:~~

- How would early involvement meet with the overall timetable for the project?
- How would early involvement enrich the eventual decision making, for example by challenging assumptions?
- How will early involvement lead to ownership and buy-in of the eventual decision?
- Are there any resourcing issues arising from early involvement?

Means of Early Involvement

Early involvement could be carried out in a number of different ways:-

- Informal Meeting / Workshop / Working Group - An overview and scrutiny committee may adopt an informal meeting arrangement or workshop, to which all members of the committee would be invited, or establish a working group, comprising a group of members from the committee. These approaches enable options to be explored in detail and the outcomes or statement from the informal meeting, workshop, or working group could be reported directly to

³ Rule 3 of the Policy and Budget Framework Procedure Rules (Lincolnshire County Council Constitution) and Regulation 4 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

the Executive or Executive Councillor, or to a subsequent meeting of the overview and scrutiny committee.

- Report to Committee – Where it is possible for early discussions to take place in the public domain, a report could be submitted to a committee at an early stage, enabling the committee to provide its views at a strategic or overarching level. This is a light-touch means of early involvement.
- Cross Party Briefing - A cross party briefing could be held with senior officers to inform councillors of a particular issue and collaboratively explore options in detail, with the outcomes shared with the relevant overview and scrutiny committee.
- Scrutiny Review by Scrutiny Panel - Where a topic requires in-depth consideration, a Scrutiny Panel may be established, subject to the availability of resources, which would lead to the submission of an evidence-based report with recommendations for the new policy or a change to an existing policy or on changes to service provision.

Information Sharing and Trust

In each of the early involvement scenarios listed above the Executive ~~would~~ expects information shared to be used to explore the options available rather than for political ~~point-scoring~~ or other purposes. In cases of early involvement, Councillors involved in overview and scrutiny must respect that information has been shared with them as part of a policy development and not use this for political or other purposes.

Outcomes of Early Involvement by Scrutiny Committees

The scenarios outlined above may lead to informal advice or guidance in the policy development process and thus may not necessarily lead to a report with recommendations. An exception to this will be where an in-depth scrutiny review takes place.

Responses to Early Involvement

~~Statements from~~ Any advice or guidance provided by the overview and scrutiny committee will be acknowledged by the Executive Councillor in an appropriate ~~way~~ ~~decision-maker~~, and a response made to the committee. ~~This could either take the form of a written or an oral report at the next relevant meeting of the committee, which can be recorded in the committee's minutes.~~

Responses to Scrutiny Reviews

In the case of in depth scrutiny reviews, which contain evidence-based recommendations, there is a requirement that a formal response to the recommendations from the Executive or Executive Councillor be prepared within two months⁴, which will indicate whether recommendations have been accepted or rejected, with appropriate reasons. Ideally, the response will contain an action plan, indicating how the accepted recommendations will be implemented.

B. EXECUTIVE DECISION MAKING

Each relevant overview and scrutiny committee is encouraged to consider any proposed decisions, which are due to be made by the Executive or by an individual Executive Councillor, or any proposed key decision due to be made by a chief officer. This consideration would usually involve the relevant committee reviewing the report containing the proposed decision and preparing a statement on the proposals, including an indication of whether the committee supports the proposals, either wholly or in part. The committee's statement should be included in the report containing the proposed decision and submitted to the decision maker(s). If the statement is not available at the time the report is finalised due to exceptional circumstances, it will be circulated to the decision maker(s) for their consideration.

Consensus and Minority Views

When overview and scrutiny committees reach a consensus, this will be reflected in the committee's statement. However, there will be circumstances where the committee's statement will reflect a range of views, including majority and minority opinions, and these should be so indicated in the committee's statement.

~~Whenever possible~~ Statements from the overview and scrutiny committee, ~~whether included in the final report or circulated separately to the decision-maker, form part of will be acknowledged by~~ the decision making process and are recorded as part of the Council's record. ~~and a~~ A response may be made to the committee, which could either take the form of a written or an oral report. Any responses will be recorded in the committee's minutes.

C. ATTENDANCE AT MEETINGS OF THE EXECUTIVE

The Chairman or Vice Chairman of the Overview and Scrutiny Management **Board Committee** will as far as possible attend each meeting of the Executive. Following these meetings the Chairman or Vice Chairman of the Overview and Scrutiny Management **Board Committee** will highlight any pertinent issues to the next meeting of the Overview and Scrutiny Management **Board Committee**. The Chairman may also raise any issues with any other overview and scrutiny committee of the Council.

⁴ Section 9FE of the Local Government Act 2000.

The Chairmen or Vice Chairmen of overview and scrutiny committees ~~may should~~ attend meetings of the Executive, where an item relevant to their committee's remit is being considered. Where chairmen or vice chairmen ~~can~~ attend, they will be invited to present any statements to the Executive. This will help to facilitate a good working relationship between the Executive and Overview and Scrutiny, and ensure that the Executive directly hears the reasons for the overview and scrutiny committee's recommendations and comments and to clarify the outcome from the overview and scrutiny committee.

Where an overview and scrutiny committee has requested an in-depth review, the Chairman or Vice Chairman of the overview and scrutiny committee will present the report and recommendations in conjunction with the Chairman of the Scrutiny Panel which undertook the in-depth review.

D. ATTENDANCE AT MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEES

It is accepted that Executive Councillors may not be able to attend all meetings of their relevant overview and scrutiny committees. An overview and scrutiny committee may request the attendance of an Executive Councillor for a particular item on the agenda. In such cases if the Executive Councillor is not available he or she should be represented by the Executive Support Councillor. ~~To facilitate good practice, diary invitations for each relevant overview and scrutiny committee will be issued to the Executive Councillor and Executive Support Councillor.~~

Each overview and scrutiny committee ~~should consider whether to~~ includes Statements from Executive Councillor(s) as a standard agenda item, where the Executive Councillor(s) or Executive Support Councillor(s) ~~could~~ ~~may~~ advise the committee of any relevant matters, ~~including any responses to statements or recommendations, in accordance with sections A and B above.~~

E. SETTING THE AGENDA

~~Relationships Briefing Meetings~~ Between Executive Councillors and Overview and Scrutiny Committee Chairmen ~~and Vice Chairmen~~

~~Good working relationships between Executive Councillors and the Chairmen and Vice Chairmen of overview and scrutiny committees support the development of a robust scrutiny process. These relationships could be based on Rregular briefing meetings are recommended~~ between the Chairmen and Vice Chairmen of overview and scrutiny committees and the relevant Executive Councillor(s) and Executive Support Councillor(s), ~~although this need not be the case in every instance, as an open and constructive dialogue is more important than a meeting.~~

~~These~~ ~~Where~~ briefing meetings take place, they may ~~should~~ include the scrutiny officers, and any relevant officers if required. ~~Ideally, such meetings should take place every quarter if possible.~~ These meetings will support the development of an open and constructive dialogue, leading to a unity of purpose, between overview and

scrutiny and the Executive. ~~This dialogue~~ ~~The meetings~~ could inform the content of the committee's work programme, with suggestions for future scrutiny reviews and agenda topics, including items which would involve the committee in developing new policies or reviewing existing policies.

Setting the Agenda

Overview and scrutiny committees should not, as a general rule, involve themselves in relatively minor matters or individual cases, particularly where there are other processes, which can handle these issues more effectively. Overview and scrutiny committees should not be used as an opportunity to argue over issues which are of an overtly party political nature, which can be dealt with more appropriately through meetings of the County Council.

The ~~management oversight~~ of the work programme of each scrutiny committee is a role for the Overview and Scrutiny Management ~~Board Committee~~. ~~Each year the Overview and Scrutiny Management Committee will draw up in advance the annual scrutiny programme, based on the results of meetings between the scrutiny chairmen, vice-chairmen and officers in the various service areas. Adequate resource should be identified for delivering the programme, with some unallocated time for unplanned scrutiny items.~~ Each overview and scrutiny committee will submit a report on its planned work programme to the Overview and Scrutiny Management Board on a quarterly basis. At the same time, each committee will highlight in its report its main activities over the previous quarter.

At each meeting of an overview and scrutiny committee, there will be an opportunity to review the committee's future work programme. This provides an opportunity for individual members of each committee to ask for a particular item to be included but, depending on resource, this may be at the expense of something else in the programme. All members on an overview and scrutiny committee should be encouraged to bring forward important items of community interest to the committee whilst recognising that not all items will be taken up.

Requests by the Executive to Overview and Scrutiny Committees

The Leader of the Council, the Executive, or an individual Executive Councillor, may request an overview and scrutiny committee to consider a particular matter within its remit which could be related to issues of a contentious nature, sizeable budgetary implications, an impact on the whole community, or an impact on outside bodies or organisations. This could range from consideration of a matter at a single committee meeting to a full scrutiny review, taking place over several months.

Depending on the timing of the request, a report may be submitted to the next meeting of the committee. Alternatively, a request for a more extensive piece of work may be considered by the committee as part of its work programme item on its next agenda.

F. CODE OF CONDUCT

The aim of promoting good behaviour and relationships between the Executive and Overview and Scrutiny, as set out in this protocol, is supported by the Members' Code of Conduct. The section in the Code of Conduct relating to 'Respect' is pertinent for all aspects of the overview and scrutiny function. Early involvement in policy development is also highlighted as an area, where the Code of Conduct applies.

G. COUNTY COUNCIL OFFICERS

General

All officers are employees of the County Council as a whole. Corporate ~~Leadership Team Management Board~~ and other senior officers are responsible for day-to-day managerial and operational decisions. Whilst most of their work is directed to supporting the activities of the Executive, they have a role in supporting all councillors, including councillors involved in the overview and scrutiny function. The Chief Executive, as head of the paid service, will ensure that sufficient and independent support is given to the overview and scrutiny function.

The Role of the Monitoring Officer

The Monitoring Officer has three main roles: ensuring the Council's compliance with the law; having an oversight in relation to the conduct of councillors; and ensuring compliance with the Council's constitution. The Monitoring Officer will also have an oversight of the effectiveness and implementation of this protocol.

The Role of Statutory Scrutiny Officer

The role of the statutory scrutiny officer is defined by statute⁵ as:

- (a) promoting the role of the Council's overview and scrutiny committees;
- (b) providing support to the Council's overview and scrutiny committees and their members; and
- (c) providing support and guidance to all members of the Council and its officers on the functions of the Council's overview and scrutiny committees.

The Council's Scrutiny Officers will support the Statutory Scrutiny Officer in their role and provide support to the overview and scrutiny function. The Council's scrutiny officers should play a proactive role in ensuring effective scrutiny of decision making. Accordingly there should be a close working relationship between scrutiny officers and councillors involved in scrutinising decisions. Both scrutiny officers and scrutiny councillors should be involved in testing the merits of proposals under consideration with scrutiny officers acting in an advisory role with councillors.

⁵ Section 9FB of the Local Government Act 2000

H. ANNUAL REPORT AND EFFECTIVENESS OF OVERVIEW AND SCRUTINY

As part of the annual report submitted on the overview and scrutiny function, submitted to the County Council, reference will be made to the overall effectiveness of overview and scrutiny.

Deviations from Statutory Guidance

Statutory Guidance Paragraph	Reason(s) for Deviating from Guidance
<p>11(d). Authorities can establish a strong organisational culture by maintaining the interest of full Council in the work of the scrutiny committee – part of communicating scrutiny’s role and purpose to the wider authority should happen through the formal, public role of full Council – particularly given that scrutiny will undertake valuable work to highlight challenging issues that an authority will be facing and subjects that will be a focus of full Council’s work. Authorities should therefore take steps to ensure full Council is informed of the work the scrutiny committee is doing.</p> <p>One way in which this can be done is by reports and recommendations being submitted to full Council rather than solely to the executive. Scrutiny should decide when it would be appropriate to submit reports for wider debate in this way, taking into account the relevance of reports to full Council business, as well as full Council’s capacity to consider and respond in a timely manner. Such reports would supplement the annual report to full Council on scrutiny’s activities and raise awareness of ongoing work.</p>	<p>The Panel notes the following arrangements are in place:</p> <ul style="list-style-type: none"> (a) Overview and Scrutiny Annual Report is presented to the Council at the AGM each year. (b) The Constitution sets out in Paragraph 16(c) of the Overview and Scrutiny Procedure rules (page 4/54) that: <p style="margin-left: 20px;">"Following any investigation or review, the Committee may prepare a report, for submission to the Executive and/or Council as appropriate and shall make its report and findings public."</p> (c) In specific circumstances a call-in may be submitted to the Council, on the basis that the decision is not within the Council's policy or budget framework. <p>However, the Panel believes that scrutiny review reports should not as a matter of course be submitted directly to Council. The reason is under executive arrangements the law distinguishes between council functions and executive functions and where a function is an executive function it must be exercised by the executive and cannot be exercised by the Council. This means the Council could not make a decision on a report relating to an executive function.</p>

Statutory Guidance Paragraph	Reason(s) for Deviating from Guidance
<p>Selecting the right members to serve on scrutiny committees is essential if those committees are to function effectively. Where a committee is made up of members who have the necessary skills and commitment, it is far more likely to be taken seriously by the wider authority.</p> <p>While there are proportionality requirements that must be met, the selection of the chair and other committee members is for each authority to decide for itself.</p> <p>Members invariably have different skill-sets. What an authority must consider when forming a committee is that, as a group, it possesses the requisite expertise, commitment and ability to act impartially to fulfil its functions.</p>	<p>The Scrutiny Panel acknowledges paragraphs 23 and 24 of the guidance. However, through the offer of training and development all members of committees will be able to develop their skills and knowledge.</p> <p>Paragraph 24 acknowledges proportionality requirements, but not that the wishes of the political group in making appointments to committees are paramount. The Panel concludes that the existing arrangements for appointments to committees should continue.</p>
<p>The method for selecting a Chair is for each authority to decide for itself, however every authority should consider taking a vote by secret ballot.</p>	<p>The Scrutiny Panel believes that the existing arrangements for the appointment of chairmen is transparent, and also enables representatives from minority political groups to have chairmanships and vice-chairmanships. For this reason the Panel does not support secret ballots for the election of chairmen and vice chairmen.</p>

Analysis of Business at Overview and Scrutiny Committees

The analysis has been based on the first two completed years of the current Council term. Similar analysis was undertaken to support the review of scrutiny in 2016, so comparisons have been included, where appropriate.

A. Length of Meetings

Length of Scrutiny Committee Meetings (2017-18 and 2018-19)			
Scrutiny Committee	Number of Meetings	Total Meeting Time Hours:Minutes	Average Meeting Length Hours:Minutes
Health	22	78:00	3:32
Adults and Community Wellbeing	15	41:46	2:47
Overview and Scrutiny Management ⁶	20	53:10	2:39
Environment and Economy	16	39:18	2:27
Children and Young People	16	38:05	2:26
Highways and Transport	16	39:07	2:26
Public Protection and Communities	15	31:52	2:07
Flood and Water Management	8	12:05	1:30
Totals	128	333:23	2:36

The Panel wishes to stress that the length of a meeting is no indication of its quality in terms of effective overview and scrutiny.

Apart from the Flood and Water Management Scrutiny Committee and the Health Scrutiny Committee, which often has afternoon sessions, the length of meetings across committees is similar.

In the previous council term meetings averaged 2 hours 49 minutes, so this indicates a trend of slightly shorter committee meetings.

⁶ The meeting of the Overview and Scrutiny Management Board on 1 March 2018 was cancelled owing to weather conditions, and is thus excluded from the total meeting time calculation.

B. Number of Items Considered

Total Number of Items Considered⁷ (2017-18 and 2018-19)			
Scrutiny Committee	Number of Meetings	Total Number of Items	Average Number of Items per Meeting
Overview and Scrutiny Management	21 ⁸	104	5.0
Environment and Economy	16	78	4.5
Flood and Water Management	8	36	4.5
Highways and Transport	16	70	4.4
Children and Young People	16	68	4.3
Adults and Community Wellbeing	15	63	4.2
Health	22	86	3.9
Public Protection and Communities	15	56	3.7
Totals	129	561	4.3

This shows that on average number each agenda contains 4.3 items. There is little divergence between the committees and is an indication that agenda length is being managed, so that committees do not have an excessive number of items on each agenda.

In the previous council term the number of items on each agenda was 4.4, so overall there is little change in the number of items considered.

⁷ The definition of 'item' excludes: Apologies for Absence and Replacement Members; Declarations of Members' Interests; Minutes of the Previous Meeting; Announcements by the Chairman, Executive Councillors and Senior Officers; Motions to exclude the Press and Public; Work Programme items (except items where the Overview and Scrutiny Management Board receives reports on the work programmes of other scrutiny committees).

⁸ The agenda items for the cancelled meeting of the Overview and Scrutiny Management Board on 1 March 2018 has been included for this calculation.

C. Length of Reports on Each Agenda

Average Length of Reports for Scrutiny Committees⁹ (2017-18 and 2018-19)				
Scrutiny Committee	Total Pages in Reports	Shortest	Longest	Average Per Report Pack
Children and Young People	2,230	54	240	139
Highways and Transport	2,148	42	476	134
Overview and Scrutiny Management ¹⁰	2,725	36	286	130
Adults and Community Wellbeing	1,896	12	338	126
Environment and Economy	1,861	50	236	116
Health	2,358	46	224	107
Public Protection and Communities	1,556	12	244	104
Flood and Water Management	492	20	112	62
All Committees	15,266	12	476	118

The average length of an agenda pack is 118 pages. In the previous Council term, the average length of an agenda and report pack was 106 pages.

⁹ For this calculation the agenda pages, containing the summons and the list of items, are excluded.

¹⁰ The agenda items for the cancelled meeting of the Overview and Scrutiny Management Board on 1 March 2018 has been included for this calculation.

D. Pre-Decision Scrutiny Items

Number of Pre-Decision Scrutiny Items Per Scrutiny Committee¹¹ (2017-18 and 2018-19)			
Scrutiny Committee	Number of Items	Pre-Decision Scrutiny Items	Percentage of Pre-Decision Items Considered
Overview and Scrutiny Management	104	35	34%
Children and Young People	68	19	28%
Adults	63	14	22%
Highways and Transport	70	11	16%
Environment and Economy	80	7	9%
Public Protection and Communities	56	4	7%
Totals	441	90	20%

¹¹ Pre-decision items are defined as items where the scrutiny committee considers the same report as the Executive or an Executive Councillor, and the Committee's statement is passed to the Executive and Executive Councillor. The Health Scrutiny and Flood and Water Management Scrutiny Committees focus on external agencies and are not included in this analysis.

E. Policy Development / Consultation Items

Total Number of Policy Development / Consultation Items Considered¹² (2017-18 and 2018-19)			
Scrutiny Committee	Total Number of Items	Total Number of Policy Development / Consultation Items	Percentage of Policy Development / Consultation Items
Environment and Economy	80	32	40%
Health	86	22	26%
Highways and Transport	70	12	17%
Flood and Water Management	36	5	14%
Public Protection and Communities	56	6	11%
Children and Young People	68	4	6%
Adults and Community Wellbeing	63	3	5%
Overview and Scrutiny Management	104	4	4%
Totals	563	88	16%

¹² The definition of a policy development / consultation item is where the Committee

- is involved in discussions on the development of a policy or strategy, or a significant change in service provision, taking place prior to pre-decision scrutiny;
- is consulted on the processes for a consultation activity or the content of a content, which would lead to a revised policy or strategy, or a significant change in service provision; or
- makes arrangements for, develops or approves a response to any consultation.

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