

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

Report to:	<b>County Council</b>
Date:	<b>26 June 2020</b>
Subject:	<b>Report on <i>Overview and Scrutiny at Lincolnshire County Council</i></b>

**Summary:**

A review of overview and scrutiny has been undertaken by Scrutiny Panel B following the publication of new statutory guidance in May 2019. The full Scrutiny Panel B Report is attached to the Executive and Overview and Scrutiny Management Board Reports referred to in the Background Papers section of this Report.

Following the approval of the review's eight recommendations by the Overview and Scrutiny Management Board on 30 April 2020 and the Executive on 2 June 2020, the County Council is invited to consider approving three proposals, where a decision of the County Council is required:

- revisions to the Executive and Scrutiny Protocol;
- schedule of deviations from the statutory guidance; and
- revisions to the terms of reference of the Adults and Community Wellbeing Scrutiny Committee and the Children and Young People Scrutiny Committee, and the discontinuation of the Safeguarding Boards Scrutiny Sub Group.

**Recommendation(s):**

- (1) That the Executive - Scrutiny Protocol, as set out in Appendix A of this report, be approved.
- (2) That the schedule of deviations from statutory guidance, as set out in Appendix B of this report, be approved.
- (3) That no change be made to the terms of reference of overview and scrutiny committees, as set out in Article 6 [*Overview and Scrutiny Committees*] of the Council's Constitution, except for:
  - (i) the amendment of Articles 6.03 [*Adults and Community Wellbeing Scrutiny Committee*] and 6.04 [*Children and Young People Scrutiny Committee*], as set out in Appendix C of this report; and

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| (ii) the deletion of Article 6.12 [ <i>Safeguarding Boards Scrutiny Sub Group</i> ]. |
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## **1. Background**

### Reason for the Review of Overview and Scrutiny

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. The publication of the new statutory guidance provided a prompt for a review of the Council's own overview and scrutiny arrangements, which had been introduced in May 2017, following a previous scrutiny review in 2016.

### Scrutiny Panel B

Scrutiny Panel B was tasked with the review and its terms of reference were approved by the Overview and Scrutiny Management Board on 29 August 2019. 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 Wooten. 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.

Scrutiny Panel B's final report contained eight recommendations, which were approved by the Overview and Scrutiny Management Board on 30 April 2020, and by the Executive on 2 June 2020.

This report focuses on the recommendations from the review, where a decision of the County Council would be required to implement the changes, which relate to:

- the Executive / Scrutiny Protocol
- Deviations from Statutory Guidance
- Terms of Reference of Overview and Scrutiny Committees (including the discontinuation of the Safeguarding Boards Scrutiny Sub Group)

These changes are recommended to the Council by both the Executive and the Overview and Scrutiny Management Board.

## **2. Executive / Scrutiny Protocol**

The statutory guidance lists the key elements which should be contained within an executive – scrutiny protocol. The 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. The following table sets out the statutory guidance, with a comment on how the provision is, or could be met. A revised protocol is set out in Appendix A to this report.

Statutory Guidance Paragraph	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"> <li>• The way scrutiny will go about developing its work programme (including the ways in which senior officers and Cabinet members will be kept informed);</li> </ul>	<p>Section E [Setting the Agenda] of the proposed protocol in Appendix A includes revised provisions on:</p> <ul style="list-style-type: none"> <li>• the importance of relationships (as opposed to meetings), an approach supported by written evidence from three overview and scrutiny chairmen; and</li> <li>• the role of the Overview and Scrutiny Management Board reviewing the work programmes of scrutiny committees on a quarterly basis.</li> </ul>
<ul style="list-style-type: none"> <li>• 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;</li> </ul>	<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"> <li>• recognition of the professional expertise of the paid service in developing policy; and</li> <li>• information sharing and trust.</li> </ul>

Statutory Guidance Paragraph	Comment
<ul style="list-style-type: none"> <li>A strengthening and expansion of existing parts of the code of conduct that relate to behaviour in formal meetings, and in informal meetings;</li> </ul>	<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.</p> <p>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"> <li>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</li> </ul>	<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>
<ul style="list-style-type: none"> <li>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</li> </ul>	<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>

### **3. Deviations from Statutory Guidance**

The statutory 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.

Scrutiny Panel B 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.

The County Council is invited to approve these three deviations from the statutory guidance, as set out in the schedule at Appendix B for the reasons set out in that Appendix.

### **4. Terms of Reference of Overview and Scrutiny Committees**

#### Overview and Scrutiny Committee Structure

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'.

<b>Committee / Board</b>	<b>Scheduled Meetings Each Year</b>	<b>Membership</b> (* ) = 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	8	11 county councillors

No changes are proposed to the structure of overview and scrutiny committees, other than changes to the terms of reference for the Adults and Community Wellbeing Scrutiny Committee and the Children and Young People Scrutiny Committee and the discontinuance of the Safeguarding Boards Scrutiny Sub Group, as set out below.

#### 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.

An alternative approach is proposed, whereby the Adults and Community Wellbeing Scrutiny Committee and the Children and Young People Scrutiny Committee 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, subject to the usual rules relating to the exclusion of press and 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.

Arguments in support of the retention of the Sub Group were considered by Scrutiny Panel B and included:

- The benefits of the involvement of partners, such as the NHS and the Police and Crime Commissioner, in scrutinising the activities of the multi-agency Lincolnshire Safeguarding Adults Board and the Lincolnshire Safeguarding Children Partnership.
- The fact that the Sub Group is unique is a strength in that it demonstrates the County Council's commitment to the importance of all safeguarding.
- Meetings of the Sub Group are in private, which facilitates an open discussion.

Scrutiny Panel B concluded that the Sub Group should be discontinued and its activities re-allocated. This recommendation was endorsed by both the Overview and Scrutiny Management Board on 30 April 2020 and the Executive on 2 June 2020. Arising from this recommendation, the proposed changes are set out in Appendix C.

### Relationships with Partners

The membership of the Safeguarding Boards Scrutiny Sub Group includes the Police and Crime Commissioner, who has requested consideration be given to opportunities for the Police and Crime Commissioner to engage in partnerships with the County Council. One option for the developing this partnership arrangement is provided by the Domestic Abuse Bill, which is currently being considered by Parliament. This includes a clause requiring all local authorities to establish a domestic abuse local partnership board, which could include a role for the Police and Crime Commissioner.

## 5. Conclusion

The County Council is requested to consider approving three proposals on the following topics:

- revisions to the Executive and Scrutiny Protocol;
- schedule of deviations from the statutory guidance; and
- revisions to the terms of reference of the Adults and Community Wellbeing Scrutiny Committee and the Children and Young People Scrutiny Committee, and the discontinuation of the Safeguarding Boards Scrutiny Sub Group.

## 6. Legal Comments:

The decisions set out in the recommendations are all lawful and within the remit of the full Council.

In particular the reasons given in Appendix B for the proposed deviations from the statutory guidance are good reasons for those deviations as required by the statutory guidance.

## 7. Resources Comments:

Accepting the recommendations within this report and within the *Overview and Scrutiny at Lincolnshire County Council* report, should have no material impacts on the budgets of the Council.

## 8. Consultation

- a) **Has Local Member Been Consulted?** - Not Applicable
- b) **Has Executive Councillor Been Consulted?** – Not Applicable
- c) **Scrutiny Comments**

On 30 April 2020, the Overview and Scrutiny Management Board supported the recommendations in the report. The comments of the Board were reported to the Executive on 2 June 2020.

- d) **Have Risks and Impact Analysis been carried out?** - Not Applicable
- e) **Risks and Impact Analysis** - Not Applicable

## 9. Appendices

These are listed below and attached at the back of the report	
Appendix A	Proposed Revisions to the Executive – Scrutiny Protocol
Appendix B	Deviations from Statutory Guidance
Appendix C	Proposed Changes to the Council's Constitution: Amendment of Articles 6.03 and 6.04

## 10. Background Papers

Document name	Where it can be viewed
(1) Report to Overview and Scrutiny Management Board – 30 April 2020 (Item 10) Scrutiny Review Report: <i>Overview and Scrutiny at Lincolnshire County Council</i>	Democratic Services and <a href="http://www.lincolnshire.gov.uk">www.lincolnshire.gov.uk</a>
(2) Report to Executive – 2 June 2020 (Item 5) Scrutiny Review Report: <i>Overview and Scrutiny at Lincolnshire County Council</i>	Democratic Services and <a href="http://www.lincolnshire.gov.uk">www.lincolnshire.gov.uk</a>

This report was written by Simon Evans, Health Scrutiny Officer, who can be contacted on 07387 133755 or via [Simon.Evans@lincolnshire.gov.uk](mailto:Simon.Evans@lincolnshire.gov.uk).

## Proposed Revisions to the Executive – Scrutiny Protocol

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### 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** 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'Gerner**  
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, 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 framework<sup>1</sup>.

### 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

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<sup>1</sup> 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.

reported directly to 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 months<sup>2</sup>, 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 – s~~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.

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<sup>2</sup> 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 R~~regular 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 statute<sup>3</sup> 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.

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<sup>3</sup> 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 <b>maintaining the interest of full Council in the work of the scrutiny committee</b> – 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"> <li>(a) Overview and Scrutiny Annual Report is presented to the Council at the AGM each year.</li> <li>(b) The Constitution sets out in Paragraph 16(c) of the Overview and Scrutiny Procedure rules (page 4/54) that: <ul style="list-style-type: none"> <li>"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."</li> </ul> </li> <li>(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.</li> </ul> <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 the content 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 does not take full account of the facts that although the Council allocates seats to political groups the wishes of the political group in making appointments of individual members 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>

### **Proposed Amendments to Article 6.03 and 6.04 of the County Council's Constitution**

#### **6.03 Adults and Community Wellbeing Scrutiny Committee**

##### Membership

The County Council will determine the number of members of the Council who will serve on the Adults and Community Wellbeing Scrutiny Committee.

##### Terms of Reference

The Adults and Community Wellbeing Scrutiny Committee is authorised to undertake the following activities: -

- To review and scrutinise the following services and their outcomes:
  - adult care services for frailty, people with long term conditions; for older people; for people with physical disabilities and for people with sensory impairment;
  - adult care services for people with learning disabilities; for people with autism; and for people with mental health needs, including dementia;
  - adult care services for carers;
  - adult safeguarding and the protection of adults at risk including observance of the Mental Capacity Act;
  - statutory public health services; and
  - wellbeing services, including health improvement, prevention and self-management; mental health; sexual health; housing-related support; and the prevention, treatment and recovery elements of substance misuse services.
- To review and scrutinise activities arising from integration and joint agreements with the NHS, which support or are incidental to the provision of services related to adult care and public health.
- To review and scrutinise any joint funding arrangements or agreements developed in partnership with the local NHS.
- To consider the Annual Report of the Director of Public Health on the Health of the People of Lincolnshire, using the report to inform the Committee's work programme.
- To review and scrutinise publications such as the market position statement or local account and the provision of information and advice by Adult Care and Public Health.
- To review and scrutinise quality and contract compliance in the care market.

- To review and scrutinise quarterly performance indicators, priority activities, customer satisfaction information and any other available performance measures related to the service areas within the remit of the Committee.
- To consider any new legislation, policy or national guidance related to the remit of the Committee and the consequential impacts on the Council.
- To review and scrutinise any decision that is to be or has been made by the Executive or any Executive Councillor or any key decision made by an officer in relation to the above services.
- To provide advice to the Executive or any Executive Councillor or any officer, intending to make a decision or develop policy in relation to the above services.
- To submit requests to the Overview and Scrutiny Management Board for in-depth reviews, in relation to the above services. Where a request for a scrutiny review is approved by the Overview and Scrutiny Management Board, the scrutiny review will be undertaken by a Scrutiny Panel on behalf of the Committee.
- To consider and approve reports, including recommendations, prepared following in-depth reviews undertaken by Scrutiny Panels, for submission to the Executive, Executive Councillor or the County Council, or other decision maker.
- To consider and respond to any proposals from the Executive as part of the development of the policy framework.
- To make reports and recommendations to the County Council, the Executive or relevant Executive Councillor in relation to any of the Committee's functions listed above.
- To appoint working groups in accordance with the provisions in the Overview and Scrutiny Procedure Rules.
- To liaise as required with Healthwatch Lincolnshire in relation to adult care matters, to consider any referrals made to the Committee by Healthwatch Lincolnshire and to agree a protocol for working with Healthwatch Lincolnshire.
- ~~To manage the work of the Lincolnshire Safeguarding Boards Scrutiny Sub-Group in co-ordination with the Children and Young People Scrutiny Committee.~~
- To scrutinise the effectiveness of the Lincolnshire Safeguarding Adults Board's arrangements for ensuring agencies work together:
  - to protect adults at risk from abuse
  - to promote the wellbeing and safety of adults at risk and to reduce the risk of abuse occurring
  - to promote a community involvement in safeguarding adults and promoting their welfare by raising awareness through publicity and training
  - to develop and review policies and procedures
  - to ensure systems are in place to monitor the implementation of the lessons learnt from safeguarding adult reviews
  - to ensure the multi-agency and independent sector workforce is trained to safeguarding adults and improve safety

- To review and scrutinise the Lincolnshire Safeguarding Adults Board's strategy, business plan and annual report including any updates on progress with the implementation of the priorities in the business plan.
- To review and scrutinise the outcomes of any external inspection or peer review of the Lincolnshire Safeguarding Adults Board including any action plans arising from the inspection or peer review.
- To have oversight of contemporary challenges which affect the Adult Care and Public Health functions under the remit of the Committee.

## **6.04 Children and Young People Scrutiny Committee**

### Membership

The County Council will determine the number of members of the Council who will serve on the Children and Young People Scrutiny Committee. The Children and Young People Scrutiny Committee will also include the church and parent governor representatives as members as set out in Annex A to these Articles. These members are entitled to participate at meetings of the Committee, but may only vote when education matters are to be determined.

### Terms of Reference

The Children and Young People Scrutiny Committee is authorised to undertake the following activities: -

- To review and scrutinise the following services and their outcomes:
  - Children's centres
  - Early education
  - School support services
  - School improvement
  - Special Educational Needs and Disabilities
  - Home to school/college transport
  - 14-19 education, training and apprenticeship
  - Careers service
  - Positive activities for young people
  - Teenage pregnancy
  - Supported accommodation and lodgings
  - Supported employment for young people
  - Lincolnshire Secure Unit
  - Youth Offending Service
  - Leaving care service
  - School nursing
  - Healthy schools and healthy child
  - Child protection
  - Looked After Children
  - Targeted support – young people
  - Fostering and adoption

- Residential homes for children
  - Child and Adolescent Mental Health Services (CAMHS)
  - Family support
- To maintain an overview of the activity of academy schools, colleges and universities in the County.
  - To review and scrutinise quarterly performance indicators, priority activities, customer satisfaction information and any other available performance measures related to the service areas within the remit of the Committee.
  - To consider any new legislation, policy or national guidance related to the remit of the Committee and the consequential impacts on the Council.
  - To review and scrutinise any decision that is to be or has been made by the Executive or any Executive Councillor or any key decision made by an officer in relation to the above services.
  - To provide advice to the Executive or any Executive Councillor or any officer, intending to make a decision or develop policy in relation to the above services.
  - To submit requests to the Overview and Scrutiny Management Board for in-depth scrutiny reviews in relation to the above services. Where a request for a scrutiny review is approved by the Overview and Scrutiny Management Board, the scrutiny review will be undertaken by a Scrutiny Panel on behalf of the Committee.
  - To consider and approve reports, including recommendations, prepared following in-depth reviews undertaken by Scrutiny Panels, for submission to the Executive, Executive Councillor or the County Council, or other decision maker.
  - To consider and respond to any proposals from the Executive as part of the development of the policy framework.
  - To make reports and recommendations to the County Council, the Executive or relevant Executive Councillor in relation to any of the Committee's functions listed above.
  - ~~To manage the work of the Lincolnshire Safeguarding Boards Scrutiny Sub Group in co-ordination with the Adults and Community Wellbeing Scrutiny Committee.~~
  - To scrutinise the effectiveness of the Lincolnshire Safeguarding Children Partnership's arrangements for ensuring agencies work together:
    - protect children from maltreatment and prevent impairment of children's health or development
    - to ensure that children grow up in circumstances consistent with the provision of safe effective care
    - to promote a community involvement in safeguarding children and promoting their welfare by raising awareness through publicity and training
    - to develop and review policies and procedures

- to have the safest possible practices in relation to the recruitment and selection of all those who work with children in a statutory and voluntary capacity
- to ensure systems are in place to monitor the implementation of the lessons learnt from serious case reviews
- to ensure the multi-agency and independent sector workforce is trained to safeguard adults and improve safety
- To review and scrutinise the Lincolnshire Safeguarding Children Partnership's strategy, business plan and annual report including any updates on progress with the implementation of the priorities in the business plan.
- To review and scrutinise the outcomes of any external inspection or peer review of the Lincolnshire Safeguarding Children Partnership including any action plans arising from the inspection or peer review.