

GREEN PAPER – GETTING THE BEST OUT OF SCRUTINY

DISCUSSION PAPER BY THE CHIEF EXECUTIVE

The following is the result of a discussion at the Scrutiny Reference Group reviewing the role of scrutiny and how best it might be improved. Members are encouraged to comment on these proposals, a number of which are already in operation, and to add their own suggestions. As a green paper, it is intended as a basis for discussing options.

Some of the possible changes referred to in this paper can be actioned fairly quickly, however, others, particularly those relating to structures, will require amendments to the Council's Constitution.

A. Principles

The key principles in developing proposals have been :-

- Effective dialogue and co-ordination of work between Scrutiny and Cabinet should ensure more effective decision-making and help to improve the quality of debate at Council.
- Panels provide the most effective mechanism for Scrutiny to review and develop policy proposals.
- Scrutiny has not been consistently effective in holding the Executive to account. This does need to be emphasised as a key role for scrutiny and would usually most appropriately be carried out at committee meetings.
- Members will be more committed to make Scrutiny effective if they are engaged in work which is of interest to them and of relevance to those they represent. There is an issue as to whether members prefer being specialists in a particular area or acting as generalists.
- The increase in scrutiny work over the last six months and the consequent impact on resources means that in the context of any proposals for the future of scrutiny, resource implications must be addressed.

B. Council/Cabinet/Scrutiny

This is not the place to develop arguments about how to improve the quality of debate and engagement of members at council meetings. However, proposals to improve scrutiny practice do have an impact on relationships with and the operation of the executive and the operation of council meetings. The proposals below are put forward with that in mind.

It is helpful, in order to clarify the work to be undertaken by the different arms of the Council machinery and to stimulate debate at Council, for the Leader of the Council to report on a regular basis to Council on work which the Cabinet intends to undertake. This could be done in the form of Position Statements.

The Chairman of the Commission has suggested that consideration be given to a "Queen's Speech" approach at the start of the civic year. It has to be borne in mind that the Administration's programme will have been set out in the Medium Term Corporate Strategy, which covers a four year period and that such an approach could only go so far in stating what the Cabinet's immediate priorities might be. There is of course a statutory requirement for the Leader to produce a Forward Plan on a rolling basis, dealing with the key decisions to be taken during each next three month period. The speech could also be used as an opportunity to summarise recent achievements.

The Commission should hold informal discussions with the Leader about the Cabinet's work programme for the year from which the Commission would develop its own programme of work and consider how scrutiny bodies might assist the Cabinet in the development of policy. One proposal is for meetings to take place between the Scrutiny Reference Group and the Leader, Deputy and appropriate members of Cabinet, to ensure effective co-ordination. It is also proposed that a similar process should be developed involving appropriate members at individual scrutiny committee level.

Where possible and helpful, the Cabinet will identify policy areas which it would like Scrutiny to review. It would then be for Scrutiny Committees and Commission to decide whether to adopt those suggestions (see below).

At present the matters for debate at meetings of the Council arise from the plans set out in the Constitution which make up the Council's policy framework or through Notices of Motion. It is suggested that both Cabinet and Scrutiny might do more to identify and bring forward issues for debate. The Cabinet has on occasion identified matters, which, although for it to determine, it felt would benefit from wider discussion and this approach could be developed further.

A useful suggestion is for a short "Green Paper" to be produced on a topic outlining the issues involved and potential options without any conclusions to enable discussion and comment by members at Council. There are models for this type of debate in Parliamentary procedures where discussions take place without a concluding decision (e.g. adjournment debates). The outcome of debate would then be taken into account by the Cabinet in producing a "White Paper" presented to Cabinet for further discussion and decision. A similar approach could be used to stimulate discussion on issues of less importance through scrutiny committees rather than at Council.

The Cabinet's Forward Plan provides a useful indication of issues coming up for consideration. It would be helpful for supplementary information to be made available to members in relation to each item, identifying the issues involved and the options available. However, in practical terms, this can only be done in the

majority of cases at a later stage in the lead-up time to the decision being taken and may be most helpful in the context of meetings with chairmen of committees to discuss scrutiny work programmes.

C. Scrutiny Committees – Structure

It is proposed to retain Scrutiny Committees grouped around themed areas. This structure enables:-

- the Cabinet to be held to account (as the Cabinet itself is divided into specialist areas)
- monitoring of departments and areas of policy
- members to specialise in areas in which they can develop their interest or expertise
- clarity of areas of work from the point of view of members of the public

Changes in structures in the County Council and in local health bodies provide an opportunity to consider what Scrutiny structures are appropriate. Any restructuring should reflect the principles set out in Section A above. Various options have been considered. The Scrutiny Reference Group has expressed a strong preference to reduce the structure by one committee to comprise 5 committees (including Health which is the subject of proposals below), in addition to the Commission:-

Children's Services
Resources
Community Services
Health
Environment
(Referred to as Option 1)

Children's Services

It will be necessary to make clear provision for the discussion of Education matters where co-opted members are able to contribute as in the current Education Scrutiny Committee.

Environment

Further debate would be appropriate to consider whether this should comprise Highways, Transportation and Waste Management, as at present, or be widened to cover broader Environment issues, some of which are handled by other departments such as Community Services.

Adult Services

Given the new arrangements for the scrutiny of children's services, there are arguments to consider locating Adult Services with other aspects of Scrutiny. Where should Adult Services go? It would be possible to combine scrutiny of Adult Services and Community Services, as both concern services to the public which do not fall within the rubric of other committees, particularly Children's Services. An

alternative would appear to be to group Adult Services with Health as there will be a considerable number of areas of common interest, including Mental Health. However, there are different reporting relationships (see below) and this issue needs further consideration.

Other Options

Other options have been discussed but were not preferred by Scrutiny Reference Group. These are important, not least in the context of resource implications, and are as follows:-

- (a) reducing the number of committees to four (including Health) by removing the Resources Committee and giving responsibility for scrutiny of the areas covered by it to Commission (Option 2). This reflects the difficulty in drawing clear distinctions between the work of Resources Committee and that of Commission, particularly at budget time, and the work of the newly constituted Corporate Governance Committee. It is recognised that the work of the Resources Scrutiny Committee has been more proactive and effective over the course of the last year or so.
- (b) further reducing the number of committees to three (including Health) by combining the work of the Community Services and Environment Committees (and Adult Services if that is not to be combined with the Health Scrutiny Committee) (again, Option 3). This has the merit of simplicity. In the opinion of officers, it is the only structure which can be effectively sustained with current staffing levels, given the predicted growth in five member panels and the number of programmed meetings of committees (see below). Members wishing to develop specialisms in particular areas would be encouraged to participate in panels.

D. Scrutiny Commission

Whatever structure is adopted, the Scrutiny Commission will have an important role in the scrutiny of functions not falling within the scope of another committee or falling within the scope of more than one. The Commission has particular responsibility for scrutiny of major plans and strategies which it considers to be of over-arching county-wide significance, such as the Medium Term Corporate Strategy. The Commission is responsible for the oversight and co-ordination of the work of scrutiny committees, supervising the work of panels and ensuring good practice in scrutiny generally.

These responsibilities reflect those currently held by the Commission. Whether the Commission will be responsible for other functions will in part depend upon which of the committee structures outlined above is adopted and, in particular, on the future of Resources Scrutiny Committee.

In any event, it is proposed that the Commission should set an example to other scrutiny bodies in being more proactive in monitoring the performance of the Authority and holding the Executive to account. The increased use of scrutiny panels will mean a more proactive role for scrutiny members generally in policy review. The Commission should take a strong lead in this work.

E. Scrutiny Committees – Operation

It is agreed that there needs to be fewer meetings of committees and they need to be shorter in length, although the length of a meeting does not of itself have a great bearing on officer workload. Many have been clogged up in the past with reports which have not engaged the interest of members.

Members have asked for a calendar of six meetings a year so they can plan their diaries, which is understandable. This however is in contradiction to having meetings called only as and when necessary and when there are sufficient important items on the agenda. The calendar should be seen therefore as blocked dates for meetings which may be cancelled as the need arises, rather than firm commitments.

The above means that scrutiny chairmen and spokesmen need to be more proactive in ensuring that committees only meet when necessary and that only important items go on the agenda. Officers should continue the current practice of providing a calendar of reports and events so the committees' programme can be planned. There is serious concern on the part of officers that members will fail to be proactive with the consequence that meetings will be called when not required. Officers would prefer a structure of four programmed meetings a year. If six is to be the norm, then this should be reviewed after a year. Members should rise to the challenge of having to demonstrate that meetings have been useful.

F. Health Scrutiny

Some time in 2006 the current PCT's covering Leicestershire will be merged into one county-wide PCT which will be monitored by a County Health Scrutiny Committee (to operate alongside the joint committee with members from the City Council and Rutland).

It is proposed that the Committee be entirely composed of County Councillors to deal with county-wide issues. Where appropriate other County Councillors (as local representatives), District Councillors and others might be invited to specific meetings to deal with local issues of relevance to the whole committee.

It is suggested that local issues regarding health would be dealt with by local health forums or other mechanisms set up by the District Councils (e.g. Melton already has a Melton Health Forum).

Currently the Health Scrutiny Committee does not come under the Scrutiny Commission and has no mechanism to report either to the Commission or to Council. It is suggested that the Health Scrutiny Committee would come under the Scrutiny Commission in a manner similar to the other committees, whilst recognising that it has a particular autonomy derived from its statutory status and its ability to report directly to the Secretary of State for Health without reference to any other County Council body. In practice, this means that the Health Scrutiny Committee will need to be able to respond to the major developments in health care provision and the expectations of health bodies in relation to consultation and that the Commission will not be able to direct the Health Scrutiny Committee in relation to its work programme in the same way as other committees.

The Commission would have three main roles in respect of Health Scrutiny:-

- (a) To promote best practice in scrutiny and consistent practice across the authority
- (b) To act as the reporting mechanism to Council
- (c) To determine issues relating to work programmes in respect of Adult Services work (if this option in relation to structures is adopted).

If Health Scrutiny does merge with Adult Services, it will be necessary for Health Scrutiny to maintain a clear distinction between that work and scrutiny of external health bodies, as will be the case for Children's Services Scrutiny Committee, when discussing education issues when co-opted members will be present.

G. Scrutiny Panels : Policy Review and Development

It is envisaged that much of the useful work of scrutiny will be done in panels of short but intense duration meeting regularly but lasting no more than three months or so.

Panels may be established to look at reviewing and developing policy in a particular area, to examine the delivery of a service or to improve a procedure or process.

Panels will be commissioned by the relevant committee but should gain approval from the Scrutiny Commission. The details of the proposed panel will be circulated by email to the commission members. In the absence of objections the panel will be able to proceed with its work.

It is suggested that the current arrangements for waiver of political balance on panels be continued, that the panels continue to appoint their own chairman and that panels be advertised amongst members so that those outside a committee with an interest may express a wish to serve on the panel. It is acknowledged that there will be occasions when the Administration will wish to have a majority on a panel.

Panels should be encouraged, where useful and relevant, to invite appropriate staff, including those directly involved with service delivery, external witnesses and members of the public to give evidence, meeting where it would be most convenient to these witnesses. It is important that the panel has prepared questions, or at least

a line of questioning, and made appropriate arrangements prior to the calling of witnesses.

The results of panels where relevant to all members should be circulated widely or made available and a summary of their findings communicated to Council through a Position Statement from the Chairman of the Scrutiny Commission. There should be the opportunity to publish the report to interested groups, including those who have contributed to the debate and, if appropriate, communicate findings to the press.

H. Scrutiny Chairmen and Spokesmen

Scrutiny Chairmen and Spokesmen have a key role to play in scrutiny by making sure their committees run effectively. This will be done by evaluating issues and reports and deciding those which should be handled by their committee, those which do not need to be considered and whether there are any which they are able to handle on the committee's behalf, for example urgent consultations.

It is proposed that chairmen and spokesmen will meet on a regular basis with relevant officers in briefings and with the cabinet lead member from time to time.

It is suggested that the chairmen and spokesmen meet on a regular basis between meetings to consider what policy documents and issues do or do not need to be dealt with by their committee and receiving briefings on forthcoming issues in order to consider work programmes.

I. Scrutiny Reference Group

The Scrutiny Reference Group will continue to meet regularly to review the functioning of scrutiny. It will also meet with the Leader and members of the cabinet to discuss a work programme at the start of the civic year and, possibly, again midway through the year.

The Group will also meet on a regular basis with Chairmen and, less regularly, spokesmen to review the operation of scrutiny and discuss suggestions for improvement.

J. Policy Development

It is suggested that there may be opportunities to involve Scrutiny early in the process of cabinet decision-making rather than as a consultee after a decision has been made. Whilst recognising political realities, there could be advantages in flagging up controversial issues in advance so that the possibility of cross-party agreement can be explored. The mechanism of meeting with Leader and Cabinet members should facilitate this.

Other proposals above, including a more proactive role for the Commission in encouraging the work of panels and the development of a “Green Paper” approach and improved co-ordination with the work of Cabinet should also help to encourage an examination of policy issues.

K. Training

Members will be aware of the proposals for elected member learning and development to be overseen by a Member Working Party on the basis as outlined in the paper dated 20 December issued through the Member Information Service.

In relation to Scrutiny, in broad terms, training falls under two headings, the first being to develop expertise and knowledge and the second in relation to developing skills. Seminars in each committee area will be useful as will be the all member seminars that have been organised e.g. on Education, on the Budget and a future one on policing issues.

Developing skills such as the questioning and examination of witnesses and chairing meetings might be helped by outside specialists delivering customised training for members. One such course has already been organised for Chairs and Spokespersons, more are expected to follow.

L. Scrutiny Support

Reference has been made above to the current pressure on resources to support scrutiny, in the context of options for future structures. The Scrutiny Reference Group has considered whether or not it would be appropriate to have a Scrutiny Support Unit working exclusively for Scrutiny, constituted separately from the officer core serving both the Executive and Scrutiny (sometimes referred to as “dedicated support”). Such a unit is not considered appropriate at the present time given the flexibility offered through the current arrangements.

Strong views have been expressed by some members of the Scrutiny Reference Group that at least two new posts of policy officer should be created, in addition to the existing policy officer post supporting Health Scrutiny. These officers would support panels in their work, assist members in identifying sources of information of relevance and in preparing questions for witnesses, review performance indicators and identify those key indicators that a committee might wish to focus on, in addition to carrying out more traditional administrative work to support the operation of the process.

In order to support the structures identified in options 1 or 2 above, it would also be necessary to create a new committee officer post.

There is currently no provision in the budget which would allow any of these posts to be created.

M. Continual Improvement of Practice

It is important to ensure that scrutiny practice is kept under continual review in the light of information about best practice and innovative approaches from across the country. Officers and key members should ensure that they are up to speed with the recent developments through a variety of methods, including attendance at conferences and considering research. It is proposed that Professor Leach of the Public Policy Unit at De Montfort University will be used to assist in this process and to comment on practice in Leicestershire.

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