

DRAFT FOR DISCUSSION



GREEN PAPER – GETTING THE BEST OUT OF SCRUTINY

REVISED PROPOSALS – APRIL 2006

The following is the result of discussions 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 rather than the work already done. This could be done within the current Position Statements. Likewise, the future programme of Scrutiny could be given in the Position Statement made by the Chairman of the Commission.

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.

In a similar manner to the Leader at Council, Scrutiny Committees should invite on a regular basis the Lead member from Cabinet for their area to discuss progress, policy development and future work and how the committee might assist with this programme.

C. Scrutiny Committees – Structure

The Scrutiny Reference Group discussed various models for the structure of Scrutiny including having a generalist commission which would then commission work through panels. It is proposed to retain Scrutiny Committees grouped around themed areas. The reasons given by the Group for keeping specialist scrutiny committees are:

1. They allow members to develop an interest and gain specialist knowledge in a given area. Some members already have considerable expertise and like to engage in an area already familiar to them and in which they can contribute.
2. The current system allows for all non-cabinet members to be involved in scrutiny and this throughout the year. With panels members will have to wait for a panel to appear, and because they only have five members, they have a reduced chance of getting on.
3. There are a large number of reports, policy documents, plans and consultations which readily fit in to the committee system and so are adequately scrutinised. The alternative model would not achieve this.
4. The committee system allows members to oversee the work of Council Departments effectively.
5. The committee system allows members to hold the Cabinet to account as the Cabinet itself is divided into specialist areas. Individual executive portfolio members can be held to account by the relevant committee and to engage with them on a regular basis through meetings of spokespersons and appearances at committee.
6. It enables the executive and departments to direct their work at a group of individuals responsible for and interested in a specialist area that mirrors their own.
7. Allows for greater in depth study of issues, because each committee has less area to cover.
8. Because members of a particular committee will be meeting on a regular basis it allows them to get to know and build confidence in each other which will improve genuine cross-party scrutiny.

9. The system is ideal for developing panels, for monitoring their work and for receiving their final reports and making sure they are acted on.
10. Enables members of the public to understand the workings of the Council and to which committee they should direct their efforts.

Changes in structures in the County Council because of the introduction of Children's Services and mergers in the 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 (**Option 1**) including Health, which is the subject of proposals below. In addition to the Commission:-

Children Services Scrutiny Committee

Combining Education and Social Services but may need an internal structure dealing particularly Education. Currently there are by statute, outside representatives on Education. Officers are asked to come up with proposals how this would work in practice.

Resources Scrutiny Committee

To retain its current role, covering the Resources Department and issues relating to finances such as balances etc.

Environment Scrutiny Committee

This would deal with Highways and Transport and both aspects of Waste Management (planning and disposal). The committee would include Environmental Protection and issues such as rights of way. Planning policy such as the Structure Plan would come under this committee.

Community Services Scrutiny Committee

Libraries, museums, arts, heritage, sport, parks, trading standards.

Health Scrutiny Committee

Following the expected merger of all the County PCT's into one, this would provide the overview scrutiny of PCT's, though local issues would be dealt with by local health forums at district level. Mental health would be included in this committee.

The placement of Adult Services

The merger of Education and Children's Social Services into a Children's Services Scrutiny Committee leaves the question of where to put Adult Services, as this does not justify a Scrutiny Committee by itself. Two options are possible, merge with Health or merge with Community Services.

Merging with Health (**Option 1a**) would have the advantage that in the field, adult social services and health are working much more closely together on joint adult services, both physical and mental aspects of health. The Committee would be called Adult Care and Health Scrutiny Committee. Health Scrutiny is also accountable to the Secretary of State for the scrutiny of outside bodies working in health. Similar to

Education, officers are asked to consider how this might work in practice with Adult Care.

Merging with Community Services (**Option 1b**) would place all delivered services to individuals under one committee, with the exception of Children's Services. Community Services is already thought to be very disparate, the mind set for Adult Services being more social care based might create a tension within the committee.

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:-

- (i) reducing the number of committees above to four 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.
- (ii) further reducing the number of committees to three, most likely combining Community Services and the Environment into three committees; Children's Services, Adult Care and Health, and Community and Environment (Option 3). The Group considered the reduced number of places available across the committees would mean that not all members would be able to participate on a scrutiny committee. The three committees would not provide effective monitoring of individual policy holders on the executive or of departments. Because of the range of issues in each committee it would be very unwieldy with the amount of disparate information it would have. Meetings would be more frequent and last longer.

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, service users 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. Joint Working Groups

The Scrutiny Reference Group discussed the possibility of Joint Working Groups between Cabinet and Scrutiny on complex areas of policy development, particularly on controversial issues, where an all-party approach would be desirable. This has been adopted already for Change Management. Other areas suggested include Waste Management and the Review of Secondary Education. The Group would most likely be chaired by the Cabinet lead member and would include the three spokespersons of the relevant committee or their nominees. The Group could issue policy documents for discussion a ‘Green Paper’ before issuing their final recommendations, the ‘White Paper’.

L. 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.

M. 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, but this will remain under review.

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. Resources Scrutiny Committee to review support for Scrutiny.

N. 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.

O. The Scrutiny of Partnerships and Local Area Agreements

Further work needs to be done by the Scrutiny Reference Group on how the Council scrutinises the work of outside organisations and partnerships including the Local Area Agreement. In the interim this scrutiny to be done by the Commission pending this work.

P. Community Engagement in Scutiny

Currently within the current framework service users and the wider public are able to become engaged in the work of particular scrutiny panels by invitation as has happened in the Review Panel on Library Opening Hours. This form of working is best where there are specific cross county community groups such as ethnic minorities or the elderly or where proposals affect particular geographical areas. The Scrutiny Reference Group will at future meetings engage in further work on this issue.

Parallel to community engagement with scrutiny is the issue of engagement of the public with the County Council itself and the neighbourhood agenda. This is best dealt with through a Joint Working Group called 'Communities' (or Neighbourhoods) responsible to the Cabinet through a lead member appointed for 'Communities' containing spokespersons from the Commission and scrutinised by the Commission. Under the Joint Working Group would come Local Forums or better still Area Committees for each Division with devolved budgets on which the local member would sit. These Area Committees have been adopted by a number of authorities as useful mechanisms for engaging local communities.

Q. Special Responsibility Allowances

Another of the drivers for the reform of scrutiny has been stated to be the reduction in the number of special responsibility allowances. The SRG believe that members having significant extra responsibilities with much increased work load should be recognised in the allowance system. Spokespersons by being proactive in their areas, make the committee system more manageable by dealing with reports and issues that would otherwise clog the committees. Spokespersons have an important role in working with their cabinet opposite number, with officers in their relevant department and across the groups. It would be reasonable that they should be paid an additional special responsibility allowance.

Apart from the Chairman and Group Spokesmen on Scrutiny (3 in all), currently the number of special responsibility allowances in Scrutiny is 18. Option 1 (5 Committees) reduces these down to 15, Option (i) (no Resources Committee) to 12 and Option (ii) (no Resources and Community and Environment combined) to 9.

Summary of Proposals**General**

- Leader to include future work in the Position Statement to Council rather than just work done
- Leader to give outline of year's programme in 'Queen's Speech' at start of Civic Year
- Commission and Leader (or SRG and part Cabinet) to discuss this programme
- Lead members and spokespersons to discuss year's programme for each committee
- Cabinet and Scrutiny to suggest topics for debate at Council, 'Green Papers' on future policy development
- Cabinet Forward Plan to contain issues and options for each issue

Committees and Commission

- Specialist Committee Structure to be retained
- Five Committees proposed: (Option 1a) Children's Services, Environment, Community Services, Resources and Adult Care and Health
- An alternative (Option 1b) is for a Community and Adult Services Committee
- Other option (i) Four committees as in 1a but without Resources - not favoured
- Option (ii) three committees, Children's Services, Adult Care and Health and Community and Environment - rejected.
- Commission to be more proactive in monitoring the authority and executive
- Commission to be more engaged in policy formation
- Committees to meet less regularly, spokespersons to meet regularly to review agenda and deal with urgent matters, such as urgent consultations
- County wide Health Scrutiny to consist of only County Councillors, District Councillors invited on specific issues, local health reviewed by district forums

Panels

- Work to be done in shorter but intense duration, no more than three months or so

- Commissioned by relevant committee, approved by Commission via email
- Continue waiver of political balance, panels elect own chair, members outside committee welcome
- Panels to call expert witnesses and engage service users and general public
- Findings to be circulated, published and where appropriate communicated to press

Scrutiny Chairman and Spokespersons

To meet regularly with officers and from time to time with cabinet lead member

To review Committee agenda and where necessary take action on reports etc

To be more proactive in the management of their committees and panels

Scrutiny Reference Group

- To meet regularly to review work of scrutiny, occasionally with chairs and spokespersons.
- To meet with Leader and Leads to discuss future work programme and progress

Policy Development

- Earlier involvement on Scrutiny in development of policy, cross-party approach
- Joint discussion of work programme with cabinet, development of Green Papers
- Joint Working Groups – lead member and scrutiny spokespersons

Training and Support

- Develop expertise and knowledge through seminars, skills through training
- At present no dedicated Scrutiny unit, but this to be kept under review
- Resources Scrutiny Committee to look at resources needed to support scrutiny

Partnership and Local Area Agreements

- Further work needed to be done by Scrutiny Reference Group
- Commission to scrutinise these in interim

Community Engagement

- Service users, general public, community groups (elderly, ethnic minorities etc) and where appropriate geographic areas should be engaged in process of scrutiny by invitation to relevant discussions on committees or in review by panels.
- Scrutiny Reference Group to carry out further work on this area
- Engagement of the public with the County Council (community engagement and neighbourhoods agenda) could be through a 'Communities' Joint Working Group of a specially appointed Cabinet Member with Scrutiny spokespersons.
- Under this could be local forums or Area Committees with devolved budgets for each Division on which the local member would sit.

Special Responsibility Allowances

- These to be retained for scrutiny chairs and spokespersons
- Number would reduce from 18 current to 15 under Option 1, 12 under Option (i) and 9 under Option (ii), except Commission Chairman and Spokespersons (3).