

SCRUTINY REFERENCE GROUP

SCRUTINY OF THE LOCAL AREA AGREEMENT

DISCUSSION PAPER

The Context

1. At its meeting on 18 January, the Scrutiny Commission identified the need for further work to be done to establish a clearer framework for member involvement in scrutiny of the Local Area Agreement, recognising the complex governance arrangements for implementation of the Agreement. During the course of consideration of the green paper relating to the future structure of scrutiny, the Scrutiny Reference Group was identified as the appropriate forum for further discussions on this issue on the basis that in the meantime scrutiny of the Local Area Agreement was to be undertaken by the Commission. This paper is intended as a first attempt to identify the concerns of members and to prompt debate on options for the future development of scrutiny to ensure more effective engagement in the LAA process.

Partnership Issues and Scrutiny Work to Date

2. Elected members have, publicly or privately, expressed concerns about the visibility and accountability of partnerships. Put simply, members have been concerned that they do not know enough about the activity of key partnerships within the county area, their terms of reference and membership. Concerns have been expressed that the activities of partnerships could lead to the County Council being obliged to take action which would be inappropriate, unwise from a legal or financial point of view or without any political backing on the part of members. Many of these issues were discussed at the Scrutiny Commission in 2002 following the involvement of the Education Scrutiny Committee in considering the management by the Early Years Partnership of the Nursery Education Grant. This in turn led to the production of guidelines for staff in relation to legal, financial and other technical issues and to an exercise of mapping partnerships led by the Assistant Chief Executive. The work undertaken by scrutiny served to emphasise the importance of ensuring that partnerships operate in areas where they can bring added value to the work of the County Council and that they should not be continued indefinitely, but subject to a continual process of evaluating outcomes. It is fair to say that many authorities are still at the stage of examining these issues through their scrutiny committees.
3. Another concern which members may have is that they have limited room for manoeuvre in deciding upon or questioning the priorities and actions of partnerships because these have, in effect, already been decided by the relevant partnership body. Members may be left feeling that they should not upset precarious agreements between agencies.

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To some extent it does have to be recognised that this is the reality of working in partnership. By way of example, in order to establish priorities for the Local Area Agreement, it is necessary to undertake a sensitive exercise engaging all agencies to identify genuinely stretching targets in key areas which are capable of being achieved and of benefit to the local community. Members examining this area do not start with a blank canvass and at a certain point it becomes increasingly difficult to challenge the priorities which have been identified. The difficult task for scrutiny is to both recognise this reality but also ensure that it is involved at an appropriately early stage in order to make suggestions as to what priorities would be appropriate.

4. The use of partnership working in the public sector has become increasingly common. The development of the Waste Management Partnership and Children's Trust arrangements are recent examples of significant partnerships. Many such arrangements will not have the same impact. Membership and terms of reference will vary considerably.
5. With these broad considerations in mind, the following general proposals are put forward as a starting point for discussion:-
 1. Arrangements should be made to ensure that members are kept informed of the work, terms of reference and membership of key partnerships.
 2. It is difficult and probably inappropriate to generalise about an appropriate model for scrutiny for all partnerships; much will depend upon the particular circumstances.
 3. In the case of partnerships where the County Council has the lead role, or accountable body status, the requirements of scrutiny could be satisfied by requiring the relevant lead member or chief officer to attend a scrutiny meeting to give account.
 4. More recently, scrutiny committees have been encouraged to take a more proactive role in questioning representatives of other bodies about their activities so far as they affect the residents of the council area. It must always be remembered that, except in the cases of health bodies, scrutiny committees have no power to require the attendance of other agencies and no means of ensuring that their recommendations are acted upon. In the context of the debate about partnerships, clearly the County Council may in practice exercise greater leverage, but the potentially sensitive nature of the relationship with partners identified in paragraph 3 above, does need to be borne in mind.

Local Area Agreements and Scrutiny : The Issues

6. A research report published in June 2006 by the Centre for Public Scrutiny makes the following pertinent comments:-

“LAAs allow local councils increased freedom in the delivery of public services. However, there are very few provisions to ensure local accountability. It is surprising, considering the importance of LAAs in

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devolution of powers, the only reference to accountability in the ODPM (now DCLG) perspective is towards Whitehall monitoring. The initial provision for accountability is clearly 'top-down' and does not set any standards for horizontal or "bottom up" accountability.

In the third advice note by ODPM, published in June 2005, local authorities are identified as the 'accountable body' within LAAs. Yet even in this respect, accountability still refers to 'top-down' accountability towards government offices and audit bodies. However, horizontal accountability is an integral part of the second generation of LAAs, as the area-based framework becomes a tool for the accountability of all local partners. However, no formal or informal 'bottom up' accountability provisions have been established in the guidance so far. Overview and scrutiny committees (OSCs) are not mentioned, and public engagement in the process remains unclear".

7. The CfPS report highlights work undertaken in a number of authorities and officers have also made enquiries with a number of authorities. It is clear that whilst many authorities have recognised the need to, and difficulties of, establishing a proper framework for scrutiny of Local Area Agreements, few, if any, have developed systems for doing so effectively. Difficulties have been experienced by all authorities and in two-tier authorities it is important to acknowledge that all councils have an interest in ensuring that there are effective scrutiny processes. There is interest at district council level in engaging in discussion with the County Council on an appropriate way forward.
8. It is important to ask what scrutiny members wish to achieve out of an involvement from Overview and Scrutiny bodies. The range of possibilities includes:-
 - (a) Being made more aware of the work of the Leicestershire Together Board and the content of the Local Area Agreement; this could be facilitated by the use of a seminar at an appropriate stage for all members.
 - (b) Being made aware of the outcomes and achievements under the LAA. The Members Information Service clearly has a part to play here. A quarterly report is prepared for Leicestershire Together and can be provided through MIS.
 - (c) Developing a role in the setting of priorities in the future under the LAA process. This has to be seen in the context of the comments made above about inter-agency working in this area.
 - (d) Monitoring performance against the targets in the LAA. The Leicestershire Together board has a clear role in this and the County Council Executive is the accountable body, under Government guidance, for these purposes.
 - (e) Reviewing the process generally and identifying issues to be learned for the future by the County Council. By way of example, the membership and structure of Leicestershire Together is currently under review and could be reported to Scrutiny Commission in the autumn. This may prompt further discussion about related partnerships.

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9. In addition to the difficulties referred to above, it is worth noting that the extent to which a local authority may have any freedom for manoeuvre in relation to priorities and targets is always likely to be subject to a degree of Government guidance and control.
10. It will also be important, so far as possible, to avoid multiple scrutiny arising from external bodies being called to account before a number of different scrutiny bodies. This is an issue given the roles of the Leicestershire Together Board and the Executive of the County Council referred to above and the problem should not be compounded by creating a further tier of scrutiny which is unnecessarily complex in terms of its structure.

Options

11. With all of this in mind, four different options are proposed for consideration.

Option 1 : Scrutiny Commission

12. As at present, the Commission could continue in its role of holding the relevant lead member (in this case David Parsons as both Leader of the County Council and Chairman of the Leicestershire Together Board) to account for management of the process and ensuring delivery of the outcomes of the Local Area Agreement. In practice, given the technical nature of the subject, many of the queries would be dealt with by Assistant Chief Executive. This would be sufficient to ensure scrutiny internally of those responsible for delivery. As appropriate and having taken into account the views of the Executive, the Commission could ask representatives of external agencies to attend to answer questions, for example, on performance in achieving targets or outcomes. The Commission may also appropriately perform the overview role referred to at paragraph 6 (e) above. This option does have the merit of simplicity.

Option 2 : Action by Individual Scrutiny Committees

13. Some authorities have aligned the functions of scrutiny committees to the main themes within the Local Area Agreement, particularly where these are the same as the themes within the authority's corporate strategy. In Leicestershire, although there is considerable overlap, there is not a perfect match between the Local Area Agreement, Medium Term Corporate Strategy and Annual Plan (previously Best Value Performance Plan). Given the recent re-organisation of scrutiny and the views expressed by members during that process about the importance of scrutinising the work of departments (as opposed to working on a themed basis), this paper does not propose a further reorganisation.

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14. However, it would be possible to allocate work on the particular themes to particular scrutiny committees, as set out below.

Older People	Adult Social Care and Health Services Scrutiny Committee
Health Issues	Adult Social Care and Health Services Scrutiny Committee
Environment & Waste Management (“Cleaner and Greener”)	Environment Scrutiny Committee
Safer Communities	Scrutiny Commission
Stronger Communities	Scrutiny Commission
Economic Development	Scrutiny Commission
Children and Young People	Children and Young People’s Services Scrutiny Committee

15. This would enable a more detailed examination of those parts of the LAA of particular relevance to the work of the committee particularly in relation to identifying priorities and monitoring implementation (paragraphs 6(c) and (d) above). More County Councillors would be engaged in the scrutiny process. Scrutiny committees would be able to put the debate about the LAA in the context of discussions relating to the priorities and performance of the relevant County Council department and invite external agencies to attend to answer questions. The Scrutiny Commission would retain oversight of the process as a whole. Although the County Council remains the accountable body overall, other agencies have lead responsibility for the different themes. It would be necessary to exercise care to reduce the need for external bodies with that responsibility, such as police, health or district council representatives, having to attend at a variety of different scrutiny meetings to respond to questioning. Some targets within the Agreement cut across the work of different committees, for example, reducing smoking by school age children and the Commission or Scrutiny Reference Group may have to determine issues of allocation.

Option 3 : Creation of a Panel

16. It would be possible to set up a Panel to deal with matters relating to Local Area Agreements. However, there are a number of reasons why this may not be the most effective approach. Any such panel would work under the direction of and report to the Scrutiny Commission and there is therefore a risk of duplicating the debate. Although it may be possible for panels to spend more time examining the detail of an issue, a full debate at Commission would engage a larger number of members than a panel and the Commission could, if necessary, make time available in the form of a special meeting or by means of limiting the agenda, to discuss the Agreement in greater detail. Any such panel would not be time limited and would in practice become a standing panel of the authority; this is not in accordance with the principles established that scrutiny panels should be time limited and focussed. If specific issues were identified during scrutiny of the agreement which merited detailed attention, these could then be referred to a panel.

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Option 4 : Joint Committee

17. The question does arise as to whether the County Council should establish a committee with co-opted members from other bodies to oversee the operation of the LAA. Although a number of authorities are considering this option, officers are aware of only one authority, Cornwall County Council that has gone down this route. That authority has created a scrutiny committee comprising 19 members, 10 from the County Council, 6 from districts and 3 other members drawn from health agencies and the police.
18. This is clearly a model for inter-agency scrutiny and accountability, but there are serious practical problems associated with this approach. The selection of bodies to serve on such a committee is not straightforward. The Leicestershire Together Board contains 26 members, each representing a different organisation or partnership. A list is attached. It may be difficult to justify co-opting members onto a joint scrutiny committee from, say, health bodies and the police rather than from the Fire Authority, voluntary sector or business community. Given the County Council's role as accountable body, it is reasonable that it should ensure that it has a majority of seats (as in the Cornwall model and in accordance with the approach adopted in relation to the Health Scrutiny subcommittees). This gives rise to a risk of creating an unwieldy and unfocused committee. The bigger the membership of the scrutiny body, the more it would appear to replicate that of the Leicestershire Together Board which, as noted above, does have responsibility for ensuring that targets in the Agreement are met. On this basis the question would have to be asked as to what added benefit a joint scrutiny committee would bring.
19. Some early discussions have taken place between district councils; the outcome of these discussions is not known at County level. It would be reasonable to ask the question as to whether, if a joint committee were created, the district councils would be prepared to give up their rights to scrutinising separately the operation of the Agreement, or whether differences between the councils in the areas of particular interest to them are such that this would not be acceptable.
20. A "Leadership in Leicestershire" conference is to be held on 30 October involving all agencies which make a contribution to the Local Area Agreement, to discuss progress, problems and any lessons to be learned. Whilst not formal scrutiny, this is a means of engaging all stakeholders constructively in the development and implementation of the Agreement. It may be appropriate to delay further consideration of any joint scrutiny exercise until after that event has taken place and its effectiveness assessed. This would also allow time for a debate at Scrutiny Commission on any proposals to revise the membership and structure of Leicestershire Together (see paragraph 8 (b) above). On the other hand, it has to be acknowledged that there is some desire on the part of district councils to engage in a dialogue with the County Council.

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Conclusion

20. The purpose of this paper is to prompt debate and the following proposals are made pending further discussion:-
- (a) Greater use be made of MIS to improve awareness of all members.
 - (b) A report be presented, if possible to Scrutiny Commission on 2 October 2006, on the structure, membership and work of Leicestershire Together.
 - (c) The creation of a scrutiny panel (option 3) would not be appropriate at this stage, but may be considered in the future to deal with specific issues.
 - (d) Further consideration of option 4 (joint committee) be deferred until after the conference in October to enable further discussion of the effectiveness of that approach, given the practical difficulties surrounding that option. In the meantime, it would be appropriate for the Chair of the Commission and officers to engage in discussion with district councils.
 - (e) Option 2 (individual scrutiny committees) be adopted pending completion of discussion with districts and chairmen asked to ensure that an items on agendas in relation to the relevant scheme(s) within the Agreement.

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