

By: Alex King, Deputy Leader

To: Environment, Highways & Waste Policy Overview Committee – 15 September 2009

Subject: Potential to Refocus and Restructure the Overview and Scrutiny Function

1. Context

This paper represents current thinking from a variety of sources to develop a recommendation to full Council in October. The paper needs to be seen in the context of:

- a) the emerging Strategy for Localism for the County Council and the various models and Frameworks for Localism being established across the County in conjunction with our Partners;
- b) the development of the Member role(s) and County Council's application for the South East Employers Organisation Member Development Charter;
- (c) implementation of the recommendations arising from the Informal Member Group: Member Information;
- (d) the opportunities, working in partnership with Borough/District colleagues that may exist to pool the resources supporting Overview and Scrutiny across the County and to agree shared work programmes on issues which will add value without duplication to the communities which we all serve;
- (e) the emerging scrutiny roles for which legislation/regulations have been published including Scrutiny of the Crime and Disorder Reduction Partnerships; and
- (f) the scrutiny of the public sector bodies advocated in the consultation document "Strengthening Local Democracy".

2. Overview and Scrutiny – the Key Challenges

(1) As the Strategic Authority for Kent the County Council has a unique community leadership role. The challenge to Members is to:-

- Lead the provision of public services in the area;
- Engage with local communities, tiers of local government and stakeholders;
- Define with them the future of the locality; and
- Achieve the strategies and visions which people agree.

(2) That is what the best Councils are doing and their legitimacy for the future will derive from their role as democratic bodies.

(3) All Members of all parties, not just the Executive, have a role in community leadership.

(4) Scrutiny was initially seen to provide challenge to the Council's own service performance. That remains one aspect of the role, but much of the most effective work of scrutiny bodies has involved engagement with the wider community and across all public service issues. It is now incumbent upon the County Council to develop imaginative forms of engagement, to involve local people, service users and others in scrutiny. This is a wider conversation that scrutiny can lead across the county.

3. Challenges

(1) The challenges are as follows:-

- Widening the engagement and understanding of elected Members in effective Partnership working;
- Bringing the knowledge of local issues and communities which elected Members have to service providers involved in Partnerships;
- Holding the leadership of Strategic Partnerships across the public sector including local authorities to account.

(2) Effective Overview and Scrutiny must contribute to effective Partnership working. This can be done through:-

- Using scrutiny projects to bring Partner organisations together to find new ways of working jointly to tackle important local problems (*a good example of this was the work of the Health Overview and Scrutiny Committee in the summer of 2008 which facilitated a discussion between the Acute Hospital Trust, the Primary Care Trust, Dover District Council and the County Council to look at what could be the best outcome for Dover residents in terms of future healthcare provision*);
- Raising the profile of scrutiny and its work priorities to enhance public understanding, and recognition – which has been described as ‘championing the people of Kent’; and
- Building alliances with the Executive and other stakeholders to gain support for recommendations (*another good example is the work of the previous Council, the Select Committees on Autism Spectrum Disorder and Alcohol Misuse where all the Partners that had contributed to the recommendations which were not wholly in the gift of the County Council's Executive to deliver, were brought together before the Select Committee report was published to support the recommendations and take ownership for their delivery*).

(3) It is important that the overview and scrutiny process adds value working towards positive recommendations and improvements and ensuring that it concentrates on what only scrutiny can do. It is not about duplicating the work of Regulators and Inspectorates. It is also about identifying the key issues behind the statistics – *e.g. widening the conversation to engage local people, service providers, neighbourhood users, communities, and the elected Members, verify problems, and develop ideas on how problems can be solved.*

4. Statutory Requirements

The County Council must have:-

- (a) one scrutiny committee responsible for the scrutiny of Cabinet decisions and operating a “call in “ procedure;
- (b) a statutory Health Overview and Scrutiny Committee which encompasses Adult Social Care as well as NHS matters (*in the autumn it is understood that statutory guidance for local authorities and the NHS will be published setting out how overview and scrutiny of health services can be improved*);
- (c) at least one Committee must be designated as the Crime and Disorder Scrutiny on Committee (*these new powers which came into force on 1 April 2009 currently sit with the Communities Policy Overview Committee and are shortly to be the subject of some discussions on how it will operate with the Kent and Medway Police Authority*); and
- (d) statutory co-optees as required, primarily Church Diocesan representatives and Parent Governors who serve on the Cabinet Scrutiny Committee and the education related Policy Overview Committees.

5. Emerging Scrutiny - Scrutiny of the Crime and Disorder Partnerships

(1) Cabinet Members will be aware that the County Council’s role in the scrutiny of the Crime and Disorder Reduction Partnership is currently in the Communities Policy Overview Committee.

(2) Ongoing discussions are taking place with partner organisations to identify how this might be delivered effectively across the democratically elected sector.

6. Consultation - “Strengthening Local Democracy”

(1) The first draft of a response to the consultation launched by Local Government Minister John Denham, on Strengthening Local Democracy has been considered earlier in the meeting.

(2) When launching the consultation, Local Government Minister John Denham, made reference to the proposal to give authorities greater scrutiny over:-

- Police strategies in Local Authority areas
- Fire and Rescue Authorities
- Local Authorities’ delivery of high quality education provision
- Probation Authorities

- Job Centres Plus
- Utility companies
- Young People's education and skills issues

(3) As a consequence, bodies external to the scrutiny authority could be compelled to have regard to the recommendations of the scrutiny committee.

(4) This does present the real opportunity to pool all Overview and Scrutiny resources across the public sector and establish an independent body to scrutinise the decision makers of all these public sector bodies.

(5) The public will have the right to appeal to a scrutiny committee if they do not like the response to a petition

(6) A report on a process for written petitions and electronic petitions is to be the subject of a report to the Selection and Member Services Committee on 13 October and to the County Council on 15 October 2009. Every local authority is required to have a process for e-petitions. It will be important that the Cabinet, Chief Officer Group and the Head of Communications and Media Centre are fully aware of the petitions which have been logged and their closing dates and the mechanisms for responding to the petitioner(s).

(7) There is in a two tier area an opportunity for a petitioner to a Borough/District Council who remains dissatisfied with the response to refer the matter to the County Council. How this can best be organised is to be discussed with Borough and District Council colleagues at a meeting later on this month.

(8) The Strengthening Local Democracy consultation document also suggested:

- duty could be placed on local authority Chief Executives to ensure that Committees have adequate resources to carry out their work;
- that the Chairman of an Overview and Scrutiny Committee might be given the authority commensurate with a Cabinet post - *for example Essex County Council have created a lead role for one of their Scrutiny Chairmen who chairs not only a Scrutiny Committee but also the Scrutiny Board (which comprises all the Scrutiny Chairmen and Area Forum Chairmen). The Scrutiny Chairmen have a designated room and the culture in Essex County Council has shifted to one of parity of esteem for scrutiny with the Executive. It was also evident from a discussion I have had with the Chairman of the Scrutiny Board that the culture of Essex County Council has changed and scrutiny is seen as an effective mechanism by the Council and Executive in adding value and outcomes for the residents of the County. Members may wish to consider whether the new model for Kent's Overview and Scrutiny function should strengthen the role of the Policy Overview Co-ordinating Committee to 'gate keep' and commission work for the Scrutiny Committees; and*
- there is also a suggestion that as part of the support required, Committees may call on expert advice from the public.

7. Cabinet Scrutiny Committee

(1) At the meeting of the Cabinet Scrutiny Committee on 21 July the Committee asked for a report back at its 23 September meeting on a range of issues including:-

- (a) exploring how many authorities undertake pre-scrutiny;
- (b) greater use of the media in helping to inform scrutiny;
- (c) co-opting representatives to add rigour and robustness to the Overview and Scrutiny process; and
- (d) the potential to strengthen the information made available to Members through the Forward Plan of Key Decisions.

(2) A number of local authorities responded to our request for information on pre-scrutiny. The responses indicated that the process we have for operating the existing Overview and Scrutiny structure of Committees is not dissimilar to the process described by other authorities as pre-scrutiny.

Forward Plan of Key Decisions

(4) One issue which may warrant attention is the possibility of strengthening the information in the Forward Plan of Key Decision and ensuring that the agenda setting process for each of the Council's Overview and Scrutiny Committees takes this into account.

Co-optees

(5) One view from Cabinet and the Cabinet Scrutiny Committee is that one of the ways of strengthening an Overview and Scrutiny process might be to have a pool of experts, advisors, representatives of organisations, voluntary sector or the public to call upon to assist the Overview and Scrutiny Committee for a specific issue. If this is decided by the County Council as an appropriate way forward the challenge will be to establish an independent/impartial mechanism on how this can be achieved. Discussions have taken place with the Appointments Commission, Improvement and Development Agency (IDeA) and the South East Employers Organisation to see if they can assist but it seems unlikely. It has also been suggested that other South East county authorities who are also exploring this role to strengthen Overview and Scrutiny may be willing to establish a mechanism to support our respective overview and scrutiny processes.

(6) Members will be aware that the County Council process for establishing a Select Committee already includes consideration of the appointment of a co-opted expert/advisor who will be able to assist the Select Committee.

(7) Members will also be aware that Durham County Council have established from 1 April 2009 an Overview and Scrutiny structure which includes a scheme of co-option. Ongoing discussions will continue with Durham to assess how successful this scheme of co-optees has been.

Rapporteurs

(8) Members have expressed a wish in developing a rapporteur scheme whereby an elected Member(s) with a specific interest takes ownership for a piece of work, undertakes the research themselves and prepares a report. The Health Overview and Scrutiny Committee have expressed a wish to pilot a rapporteur scheme.

Involvement of the Media/Press in Scrutiny

(9) Members will be aware that the County Council has agreed a protocol for publicising and launching Select Committee reports (attached as an Appendix to this report).

(10) However, one of the issues which arose at the Cabinet Scrutiny Committee on 21 July 2009 was utilising the media and press more effectively. Having spoken to the Member who raised the issue the suggestion made is that when the Overview and Scrutiny Committees have identified their work programme then working with the Communication and Media Centre the views of the public should be sought through a formal process.

(11) Taking this one stage further it should be possible for the public to email in questions they would like asked as the meeting is progressing. This is an exciting proposal and would need careful consideration on how it is implemented/moderated. Members views are sought.

8. Policy Overview Committees

Members are reminded that the County Councils current Overview and Scrutiny process gives non executive Members the ability to assist the Cabinet with Policy Development. At agenda setting meeting Members can make use of the Forward Plan to put an item on the POC agenda, also there is the opportunity for Cabinet Members to make the POC aware of developing policy areas which the POC could have an input into. Any Member may give notice that they wish an item to be considered at a POC meeting. It is important that Members make effective use of these powers to add value to the work of the County Council for the benefit of all Kent residents.

9. Duty to Involve

There is a correlation between the legislative framework around the "Duty to Involve" with the "Place Shaping Agenda", the development of the website, the concept of a "Virtual County Hall", (Kent Space- making Kent Work for You) (a concept whereby communities of interest through Social Networking find the County Council), the Citizens Panel, the Consultation Strategy, petitions and e-petitions, the emerging localism strategy which are all mechanisms, sources of information and evidence which can help to inform the Overview and Scrutiny function.

10. Timetable

(1) To meet the timetable for a report on the structure of the Overview and Scrutiny function to the County Council on 15 October 2009 I set out below a list of meetings which would give the opportunity to the majority of Members to contribute to this discussion.

Environment, Highways & Waste POC - **15 September**

Communities POC - **17 September**

C, F & E POCs - **18 September**

Adult Social Services POC - **22 September**

Cabinet Scrutiny Committee - **23 September**

Regeneration & Economic Development POC - **24 September**

Corporate POC - **25 September**

Health Overview and Scrutiny Committee - **2 October**

County Council - **15 October**

11. Recommendation

Members views are requested before Cabinet Members make a recommendation to County Council.

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Kent County Council

PUBLIC RELATIONS PROTOCOL FOR SELECT COMMITTEE REVIEWS AND REPORTS

This protocol has been written as a basis for all communications between Select Committee Members and the media. It will ensure that the corporate communications team is able to maximise opportunities for scrutiny to publicise its work and promote the transparency of the Council's decision-making process.

- All actions should be in accordance with the letter and spirit of the DCLG Code of recommended practice on local authority publicity.
- Media activity should be co-ordinated through the corporate communications team who will make arrangements and ensure that the appropriate Members are put forward, rather than Select Committee Members approaching the media direct to discuss the topic review.
- The Select Committee Chairman should be the official spokesperson for the review report, unless another more suitable spokesperson has been identified by the Chairman.
- Chairmen of Select Committees will be expected to attend or have attended media training.
- There is potential, on rare occasions, for conflict between scrutiny and cabinet on issues. Maintaining the professional reputation of the council in the eyes of the public is paramount and conflicting statements may make the council appear inept or divided. Care should be taken, on all sides, to avoid this situation from arising. But in such circumstances Corporate Communications would present factual information to the media fairly representing both the Scrutiny and Cabinet viewpoints.
- The corporate communications team should be advised of any media enquiries received by Select Committee Members to offer guidance and help if required and to monitor responses.
- Press releases for Select Committees will be drafted by a member of the corporate communications team, in consultation with the Research Officer for the review and approved by Select Committee Chairman, in consultation with the Overview, Scrutiny and Localism Manager.
- Press releases will be fair and representative of the views of the Select Committee. They may include the views expressed in minority reports if those views differ from the main report.

- The media are invited to attend all formal meetings of Select Committee unless matters of an exempt nature are to be discussed.
- When the report of the Select Committee is ready to go into the public domain a member of the corporate communications team, in consultation with the Research Officer to the Select Committee drafts a press release. Where possible the press release should include input from a third party who has been involved with the review. The Press release should be approved by the Select Committee Chairman (with the nominated official spokesman, where appropriate) in consultation with the Overview, Scrutiny and Localism Manager. An embargoed copy of the press release should be sent out with an electronic copy of the report, to the media a day before the public domain with an embargo on it. There may or may not be a press conference but the Chairman, relevant members make sure they are available for interviews.
- Corporate Communications officers are permitted to refuse to prepare press releases, deal with media enquiries or arrange media interviews in the following cases:
 - (i) If the press release or enquiry is political in any way.
 - (ii) If the information in the press release is deemed libellous or malicious
- Corporate Communications officers will not organise interviews between media and individual members of the Select Committee unless there is explicit agreement by the Select Committee Chairman.
- Press releases will not be issued as a matter of course after Select Committee meetings simply to record the proceedings. Post-meeting publicity will, however, be given where there is good reasons for doing so e.g. to promote opportunities for public consultation.