

Establishing a unified Overview and Scrutiny Committee system with time-limited Task and Finish groups

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1. Introduction

- 1.1 The Council's review of Scrutiny, involved an internal and external review process. The external part of the review, which was carried out by the Improvement and Development Agency (IDeA) in March 2009, made one key recommendation, which was that the structure should be reviewed and a one committee system established. The IDeA review team concluded that the agreed proposed structure for Scrutiny for 2009-10, unhelpfully replicated the committee system at a time when members had indicated they wanted to take scrutiny into a new era. In their report they also added that,

'The proposals for the new structure were developed with the best of intentions to improve Scrutiny. However, the review team felt that the proposals do not address the real, underlying problem which is about relationships, not structures.' IDeA report March 2009

- 1.2 These changes were however, put on hold by the Council earlier this year pending consideration of the IDeA review and Council further agreed that the existing Scrutiny arrangements continue.
- 1.3 The Improvement and Development Agency therefore recommended to the Council, that a one committee structure with task and finish groups be developed, as they felt that it would enable members of Scrutiny to have oversight of issues of strategic importance and would also enable the Council to build upon the Task and Finish approach which has been successfully used in the past.
- 1.4 The new legal framework within which scrutiny now operates enables Scrutiny to hold partners to account for delivery against the Local Area Agreement and has given significant additional powers to scrutinise the work of the Crime and Disorder Reduction Partnership and the National Health Service. The legislative framework within which Scrutiny is under constant review. Proposals outlined in the consultation paper *'Strengthening Local Democracy'* published at the end of July 2009, state that,

"Increasing the power and range of scrutiny is absolutely central to our vision of independent, strong and effective local government...if they (scrutiny committees) are to act effectively on citizen's behalf, on all the issues which

matter to them, we need to further strengthen the scrutiny powers which councils have. This would mean:

- ***broadening*** the number of bodies which can be subject to scrutiny committees: *not limited to those responsible for health, crime and disorder or council function, nor just those responsible for priority targets set out in the LAA*
- ***enhancing*** the powers which these committees have. *Officers and board members could be required to appear in front of the committee*
- ***enabling*** scrutiny committee to make reports and recommendations to a wider range of bodies for their consideration, and these bodies could be required to have regard to the recommendations and formally respond to scrutiny committee.”

1.5 This paper therefore tries to address these issues, however the system will again need to be reviewed once the Governments proposals have been finalised.

1.6 This paper outlines how a one committee system, with Task and Finish groups could work in practice. It examines the practicalities, the benefits and - risks associated with such a structure. There are also a number of legal issues that this paper explores.

2. Proposed structure

2.1 It is proposed that there should be one Scrutiny Committee, called the Overview and Scrutiny Board, with a small number of Task and Finish Groups carrying out detailed performance review and policy development work on behalf of the committee. A Task and Finish Group system would allow for a greater degree of flexibility, enabling the committee to set-up reviews on issues that warrant detailed examination. The Overview and Scrutiny Board, the Scrutiny Manager and Democratic Services Manager will need to manage the number of Task and Finish Groups running at the same time to ensure that there is sufficient member/officer capacity; this of course will mainly depend on the level and complexity of the review.

2.2 The Chair will be elected by the Overview and Scrutiny Board from a member of a party not represented on the Executive. (Please note the constitution cannot state from which party the Chair is to be elected from, as legally the Board is free to select it's Chair).

3. Overview and Scrutiny Board role and responsibilities

3.1 It is the proposed that the main role of the Overview and Scrutiny Board would be to oversee the Overview and Scrutiny process and to be the main body for

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accountability and strategy development. It is therefore proposed that its responsibilities should be:

- (a) Articulating and communicating the role and purpose of Overview and Scrutiny;
- (b) Setting the overall direction for the board and its working groups – agreeing early on a small number of key priorities for scrutiny between now and March 2011.
- (c) Overseeing the Overview and Scrutiny processes;
Including:
 - (i) Managing and developing a single work programme;
 - (ii) Managing and developing protocols including; the Councillor Call for Action protocol, call-in protocol, the protocol that meets the relevant requirements as outlined in the petitions scheme, and the Local Involvement Network referrals protocol;
- (d) Developing the Overview and Scrutiny system for its future roles;
- (e) Deal with Councillor Calls for Actions, call-ins, petitions, challenges to the operation of the petitions scheme and Local Involvement Network referrals as per the agreed protocols;
- (f) Establishing Task and Finish Groups to undertake reviews;
Including:
 - (i) Determining the groups' remit, terms of reference, scope and minimum and maximum membership numbers;
 - (ii) Setting the reporting timescales;
- (g) Performance managing the Overview and Scrutiny system;
Including:
 - (i) Monitoring and managing performance progress against the Overview and Scrutiny strategic plan;
 - (ii) Supporting the development of board members;

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- (iii) Keeping Constitutional provisions relevant to Scrutiny under review, ensuring that they are fit for purpose, making recommendations to the Constitution Committee as appropriate;
- (h) Act as the statutory committee responsible for scrutinising Health issues (as required by the Health and Social Care Act 2001) and for scrutinising Crime and Disorder issues (as required by Sections 19 and 20 of the Police and Justice Act 2006);
- (i) Contribute to the development of the Council's and partner's annual revenue and capital budget strategies and medium term financial strategies and the Area Based Grant;
- (k) Monitor the Council's and partner's revenue and capital budgets and the Area Based Grant budget and to have oversight of the Total Place project;
- (l) Using internal and external expert knowledge to inform work the Board's work and it's Task and Finish Groups;
- (m) Participate in the Comprehensive Area Assessment (CAA) work that the Council undertakes with partners;
- (n) Power to co-opt non-voting members to the Board;

3.2 The Board (and the Task and Finish Groups in relation to matters referred to them) will also have the statutory terms of reference of Scrutiny Committees as provided for in Section 21 of the Local Government Act 2000. These are:

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Executive.
- (b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the Executive.
- (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Executive.
- (d) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the Executive.

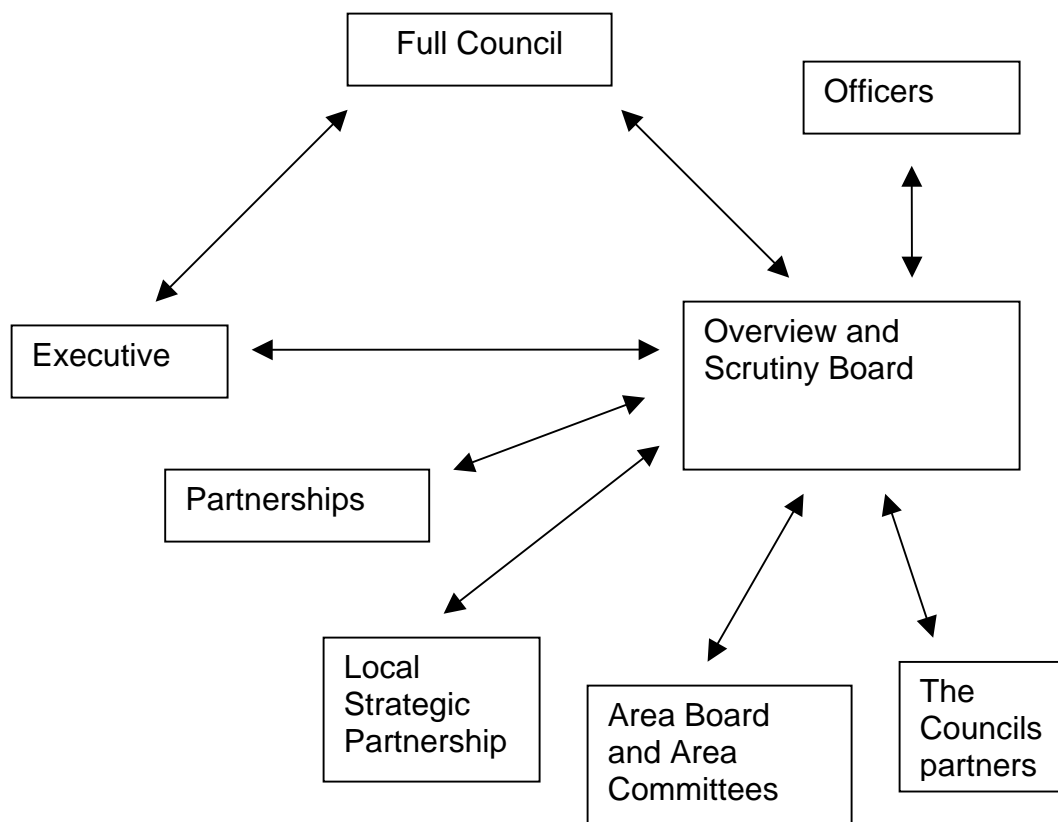
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- (e) to make reports or recommendations to the authority or the executive on matters which affect the authority's area or the inhabitants of that area.
- (f) in the case of the overview and scrutiny committee or committees of an authority to which section 7 of the Health and Social Care Act 2001 applies, to review and scrutinise, in accordance with regulations under that section, matters relating to the health service (within the meaning of that section) in the authority's area, and to make reports and recommendations on such matters in accordance with the regulations.]

3.3 Full terms of reference will, subject to approval of the proposals in this report, be set out in the report to Constitution Committee.

4. The Boards relationships with internal Council bodies, partners and partnerships

4.1 A diagram



4.2 The provision within the constitution that enables Scrutiny to refer issues to the

Executive or Full Council will remain in place. The constitution will need to be updated to make it clear that Overview and Scrutiny, can also refer issues or make recommendations directly to the relevant internal or external decision making body, for example the Police Authority or Local Strategic Partnership.

5. Developing the work programme

- 5.1 The internal and external review of Scrutiny highlighted that the current process for developing the Scrutiny work programme is, not fit for purpose. Specific areas of concern are, that the work programme is not addressing issues of concern to the people of Luton; it is not focused on assisting the Council and its partners to deliver their priorities; it is not designed in a way that enables Scrutiny to hold the Council and its partners to account and it is not focused on policy development.
- 5.2 There will be an expectation from the Overview and Scrutiny Board on the Councils Corporate Directors, Executive Members and the Councils partners that Overview and Scrutiny Members will be involved at the very early stages of policy development to ensure that Overview and Scrutiny plays an effective role in the development of policy. The view of the Scrutiny review project board is that Corporate Directors, Executive Members and Partners should be able to outline plans covering at the very minimum, the year ahead.
- 5.3 It is therefore proposed that when developing the work programme the Board gives regard to the following:
 - (a) Priorities within the Sustainable Communities Strategy and the Local Area Agreement;
 - (b) Key issues identified from customer comments and feedback;
 - (c) Community feedback from direct Board and Task and Finish Group engagement events and activities and from engagement activities carried out by others;
 - (d) The Councils Corporate Plan and the strategic plans of the Councils partners and its partnerships;
 - (e) Feedback from Ward Councillors on issues being raised with them to spot emerging trends;
 - (f) Council and partner performance Management data;
 - (g) Information from inspection bodies;

- (h) Priorities and issues identified by officers, executive members and senior Council partner and partnership representatives.

5.4 A prioritisation toolkit will be used to help determine which issues require a Task and Finish Group review, with those issues that are a strategic priority, and those which Board Members are interested in or concerned about receiving the highest priority.

6. Task and Finish Groups role and responsibilities

6.1 It is proposed that the main role of the Task and Finish Groups would be to carry out reviews into issues identified by the Board as requiring detailed examination. There will be a presumption that their meetings will be held in public. They would be specifically responsible for;

- (a) Electing a review Chair;
- (b) Gathering and taking evidence;
- (c) Ensuring that they meet their terms of reference;
- (d) Engaging with the public, relevant officers, internal and external experts, partners and partnerships on the issue;
- (e) Reporting back to the Board on progress;
- (f) Require the Task and Finish Group Chair to present their final report to the Board and then present that final report to the Executive or other internal/external decision making body;

7. Chair of the Board role and responsibilities

7.1 It is proposed that the main role of the Chair of the Board is to lead and manage the work of the Overview and Scrutiny Board through;

- (a) Providing leadership and direction to the Board, ensuring that the work of the Board reflects the needs and aspirations of Luton's communities and people and the priorities of the Council, its partners and partnerships;
- (b) Acting as the lead link to and from their group to the Board;
- (c) Working with the Leader of the Council, Executive Members, Senior Officers and Senior representatives of partners to: Champion the role and purpose of Overview and Scrutiny and to ensure that they support the work of the Overview and Scrutiny Board;

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- (d) Representing the Board at Local, Regional and National events; championing the work of the Board and to build beneficial working relationships with scrutineers elsewhere;
- (e) Ensuring that the following member values for the operation for Overview and Scrutiny are upheld;

Promoting equality, inclusion, and community cohesion through Overview and Scrutiny

Treating witnesses, members of the public, officers, partners and each other with courtesy and respect
--

Through strong chairing and ensuring that members are objective, leaving partisan party politics out of Overview and Scrutiny

Engaging with and putting the needs of the community first
--

Making recommendations on the basis of consensus, to achieve acceptable resolutions

Providing clarity about its purpose, role and performance

- (f) Leading the performance management of the Overview and Scrutiny system, encouraging members, officers and partners to take-up Overview and Scrutiny training and development opportunities;
- (g) Participating in personal development planning;
- (h) Leading the implementation of the Overview and Scrutiny improvement action plan and the strategic plan for Overview and Scrutiny;
- (i) Presenting on behalf of the Board an annual report summarising the work undertaken, achievements over the last municipal year and plans for the future.

8. Board Vice-Chairs role and responsibilities

8.1 There will be two Vice-Chairs, one from each of the political parties not represented by the Chair. They will have the same roles and responsibilities as for a Board Member, plus;

- (a) Acting as the lead link to and from their group to the Board;
- (b) Leading on areas for development as allocated by the Board;

- (c) Supporting the Chair in undertaking their areas of responsibility as requested by them;
- (d) Assisting the Chair in ensuring that Board Members keep to the agreed member values for the operation of Overview and Scrutiny;
- (e) In the absence of the Chair, chairing meetings of the Board (On a rotational basis between the two Vice-Chairs starting in alphabetical order)
- (f) Participating in personal development planning;

9. Board member role and responsibilities

9.1 Each Member of the Overview and Scrutiny Board:

- (a) Attending formal meetings of the Board;
- (b) Preparing for each meeting by reading the agenda papers and additional information to familiarise themselves with the issue under scrutiny;
- (c) At the meetings, listen carefully, ask questions in a way which is non-judgemental, respect confidentiality and help the Committee to make practical suggestions for improvements in services;
- (d) Contributing to the preparation of reports and the formulation of recommendations;
- (f) Contributing to the Council's Performance Management Framework; providing challenge, examining services from the perspective of local people;
- (g) Contributing to the development of the Annual Work Programme;
- (h) Attending training and development events and other workshops in order to develop understanding of the key priorities and initiatives being pursued by the Council and its partners;
- (i) Keeping abreast of the key issues for the authority and its partners and apply that knowledge when over viewing and scrutinising services and making recommendations for improvement;
- (j) Contributing to the further development of Scrutiny, helping to achieve an open, accountable and transparent decision-making process;

- (k) Keeping to the member values for the operation of Scrutiny;
- (l) Participating in personal development planning;

10. Membership of the Overview and Scrutiny Board

10.1 It is proposed that the membership of the Overview and Scrutiny Board be:

Labour 5
Lib Dems 3
Conservative 1
Statutory voting co-optees 4
With the power to co-opt, non-voting co-optees as the Board see fits.

Total membership: 13

- 10.2 The quorum will be three elected members (i.e. disregarding the statutory co-optees)
- 10.3 The statutory political balance rules require that the majority group on the Council has a majority over all other members on the Board including statutory voting co-optees. Once this is achieved the rules provide that the allocation of seats is done without reference to the statutory voting co-optees. This produces a very large body of members and increases the seats allocated to the majority group at the expense of other groups.
- 10.4 All three parties will support the political balance rules being disapplied so as to remove the requirement for the majority group to have a majority (partial disapplication) or disapplied totally giving the Council complete freedom over appointments (total disapplication).
- 10.5 Both partial or total disapplication of the political balance rules require a resolution of Full Council with notice of the proposal set out in the summons and with no single member voting against. (Members can abstain).
- 10.6 To give maximum flexibility and to ensure a more manageable size for the Board it has been agreed that it will be proposed to Council that it be recommended to approve total disapplication of the political balance rules in relation to the appointment of the Board and in relation to any Task and Finish Groups appointed by the Board or under arrangements approved by the Board.
- 10.7 It is important to note that there are currently three non-statutory and non-voting seats on the Children and Young People Scrutiny Committee and that it is not currently proposed to automatically re-create these positions on the Overview and Overview and Scrutiny Board or any Task and Finish Groups that deal with education matters.

11. Substitutions

- 11.1 Members wish to allow substitutions for the Overview and Scrutiny Board and Task and Finish Groups. Therefore, it is proposed that the system for substitutions to the Board be as follows:
- (a) That the member who cannot attend be required to identify a substitute and notify Democratic Services of that substitution by no later than the start of the meeting.
 - (b) An Overview and Scrutiny Board or Task and Finish Group member may be substituted at a meeting by a non-executive member, but the substitute must not already be on the Board or that particular Task and Finish Group.
 - (c) That the substitute may be drawn from the membership of any political Group represented on the Council.
 - (d) The Chair and Vice-Chairs may only be substituted by other members of the Overview & Scrutiny Board.
- 11.2 It is further proposed that where an Overview and Scrutiny Board Member or Task and Finish Group Member fails to turn-up for three consecutive meetings, that member should be removed from the Task and Finish Group and that Council be asked to replace a Overview and Scrutiny Board Member

12. Co-optees

- 12.1 Legislation requires that representatives of the Church of England, the Catholic Church and Parent Governors (x2) have places on any committee (in this case the Overview & Scrutiny Board) or Sub committee (in this case potentially one of the Task and Finish Groups) that examines educational issues. These co-optees **have full voting rights on educational matters only**. Legally co-optees will receive all papers relating to the Board and are entitled to attend Board meetings, at which they can speak. For any Task and Finish Groups that meet to examine education issues, the co-optees will automatically become members of that Task and Finish Group.
- 12.2 In accordance with best practice, the Overview and Scrutiny Board and Task and Finish Groups should be able to have a flexible approach to appointing non-voting co-optees. It is therefore recommended that a pool of experts, community representatives and members of the public be established by the Scrutiny Team.
- 12.3 Co-optees would be expected to:

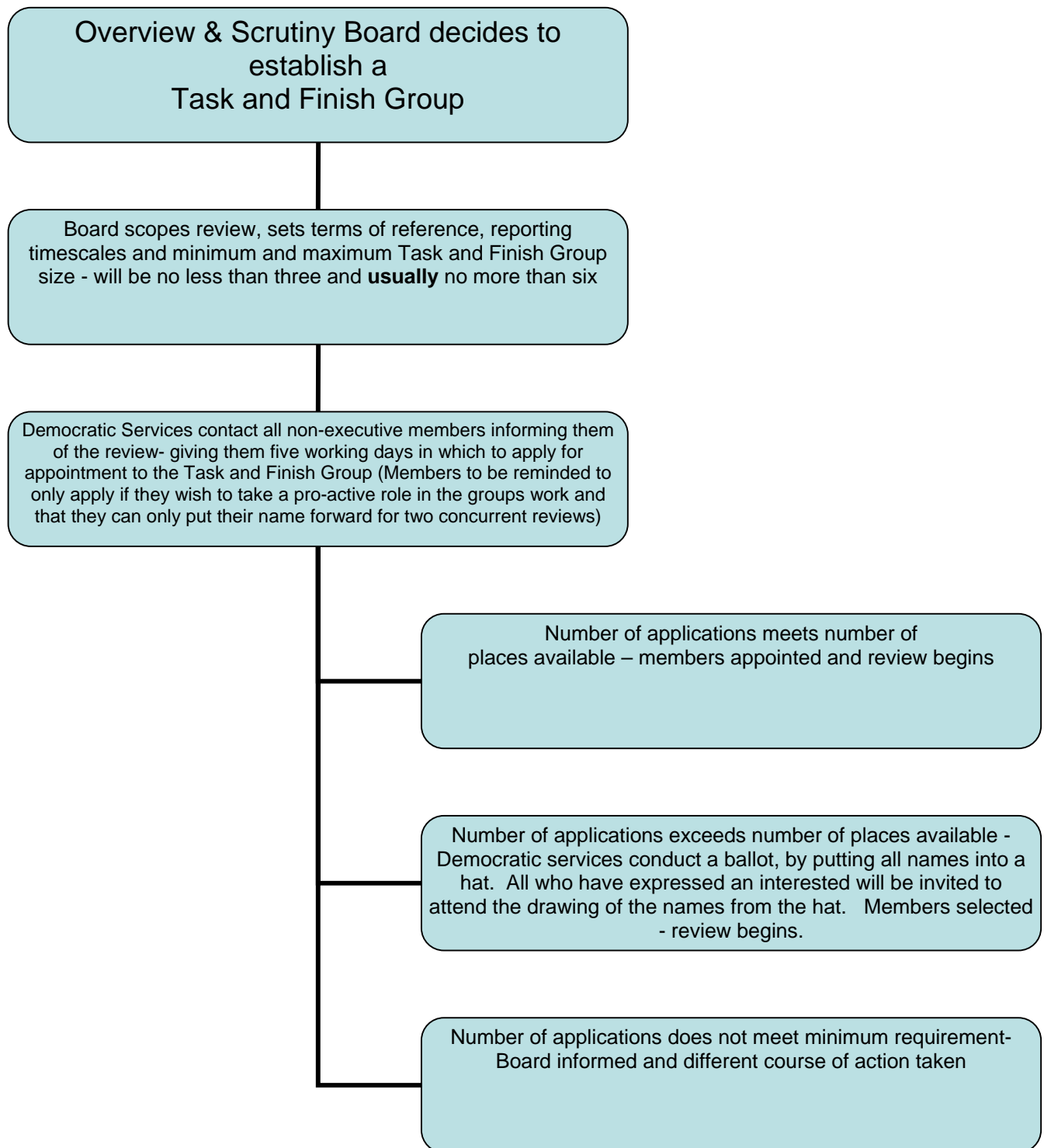
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- (a) Bring specialist knowledge and/or skills to the Scrutiny process and/or to bring an element of external challenge by representing the public;
- (b) Take an interest in, attend and contribute to the Task and Finish Groups to which they are appointed;
- (c) Establish good relations with other members, officers and co-optees;
- (d) Abide by the relevant sections of the Council's Constitution in terms of the rules and procedures for Overview and Scrutiny, Committee proceedings and the member values for the operation of Overview and Scrutiny;
- (e) At all times seek to promote awareness, understanding and interest in the work of Overview and Scrutiny.

13. Membership of the Task and Finish Groups

- 13.1 The process for appointing the membership of the Task and Finish is proposed to be as follows;

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- 13.2 It is further proposed that any member can attend a Task and Finish Group to observe, speak or give evidence, subject to the discretion of the Chair.

- 13.3 Task and Finish Groups will be given the ability to co-opt (people with no voting rights) anyone they feel would contribute to the review, for example, members of the public or experts in a particular subject.

14. Task and Finish Group Chair's role and responsibilities

- 14.1 It is proposed that the role of each Task and Finish Group Chair should be to:
- (a) Ensure that review members keep to the agreed values for the operation of Overview and Scrutiny;
 - (b) Work closely with the Scrutiny Team, to ensure the review is effectively project managed to time and to the agreed terms of reference;
 - (c) Undertake 'Chairing a Task and Finish Group' training before being elected as Chair;
 - (d) In between Task and Finish Group meetings, be consulted on urgent decisions, for example altering dates;
 - (e) Ensure that reviews engage with the public, relevant officers, internal and external experts, partners and partnerships on the issue;
 - (f) Ensure that reviews consider all financial, equalities and cohesion issues;
 - (g) Report back to the Board on progress;
 - (h) Present the final report to the Board and then present the final report to the Executive or other internal/external decision making body;
 - (i) Participate in a development planning process at the end of review;

15. Call-ins/Councillor Calls for Action/Relevant Petitions/Challenges to the operation of the petitions scheme/Local Involvement Network referrals

- 15.1 It is recommended that the Overview and Scrutiny Board deals with these, as per the developing protocols.

16. Proposal - Benefits and Risks

- 16.1 Benefits - there are a number of benefits of moving to a single committee structure with ad-hoc Task and Finish Groups, specifically these are;

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- (a) Improved accountability - time to ensure that issues are thoroughly examined and that evidence-based, robust recommendations are developed;
- (b) Scope of Overview and Scrutiny widened - the powers to scrutinise partners rest within one body, therefore, much easier to have an oversight of issues coming forward;
- (c) Clear leadership - puts Overview and Scrutiny members into the driving seat;
- (d) Focus - members will need to prioritise issues of concern or -importance to Luton;
- (e) Community engagement - through developing a work programme that engages with the public and through involving the public with reviews.

16.2 Risks - There is a risk that the proposed scope of the Board is too wide and that this could lead to the board being overwhelmed with work. There will be need to be early agreement on a small number of priorities for Scrutiny. There will also need to be a change in the prevailing member/officer approach to bring this about.

17. Legislation governing Overview and Scrutiny

- 17.1 Establishment of Scrutiny within Local Authorities and powers are in the Local Government Act 2000. The Local Government Act 2000 also transferred the statutory requirement to have parent governor and church school representatives on bodies considering education issues to scrutiny bodies and also gave local authorities the power to appoint non-voting co-opted members onto scrutiny committees.
- 17.2 Powers relating to the Scrutiny of Health and Social Care powers are contained within the Health and Social Care Act 2001.
- 17.3 The Local Government Act 2003, gave local authorities the ability to make and publish a scheme that allows co-optees onto scrutiny committees and to have voting rights.
- 17.4 Legislation to enable Councils to scrutinise and hold to account the Crime and Disorder Partnership and hold them to account on Crime and Disorder matters is contained within the Police and Criminal Justice Act 2006.
- 17.5 Local Government and Public Involvement in Health Act 2007, which legislated for Scrutiny Committees to hold the Council and its partners to account for their performance against an areas Local Area Agreement Improvement Targets and

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to enable Councillors to Call for Action on issues they feel are not being adequately addressed by those partners.

- 17.6 Government guidance on the operation of Councillor Calls for Action, published in conjunction with the Centre for Public Scrutiny, April 2009
- 17.7 Government guidance on implementation of the Scrutiny of Crime and Disorder Partnership and the establishment of a Crime and Disorder Scrutiny Committee, April 2009.
- 17.8 Currently in Parliament and likely to be implemented next year, is a Government bill establishing a statutory Scrutiny Officer post, Scrutiny involvement with petitions and holding Chief Officers to account, 2009 into 2010.
- 17.9 Strengthening Local Democracy consultation - outlines proposals to extend the powers of Scrutiny to a wider group of partners and the possibility of Scrutiny being able hold utility companies to account. Consultation closes on October 12th 2009.
- 17.10 In autumn, publication of statutory guidance is expected on how Overview and Scrutiny of the Health Service can be improved.

18. Information on Overview and Scrutiny systems elsewhere

- 18.1 The following Councils that are most similar to Luton, have adopted a task and finish group structure:

Peterborough City Council	Multiple strategic Scrutiny committees. Flexible approach to Task and Finish Groups.
Leicester City Council	Multiple strategic Scrutiny committees. More formalised system of Task and Finish Groups.
Torbay Unitary Council	Considering moving back to a single Scrutiny Committee system. Flexible approach to the establishment of Task and Finish Groups.
London Borough of Haringey	A single Scrutiny Committee. More formalised system of Task and Finish Groups.
Southampton City Council	One committee system. Formalised system of sub-committee and Task and Finish groups.
Northampton Borough Council	Multi-committee strategic focused Scrutiny Committees. Very flexible Task and Finish Group system.

19. Resources/Allowances

- 19.1 Member's allowances for Scrutiny will need to be reviewed by the Independent Members Allowances Panel and a report taken to Council.

20. Timetable

28th July - Conservative Policy Group 6.00pm

6th August - meeting of the Project Review Board

7th August – Scrutiny Manager, Mark Farmer, to circulate the outcomes of that meeting to the appropriate Officers and Members

13th August - Labour Policy Group 6pm.

13th August - Liberal Democrat Policy Group, 7pm.

18th August - meeting of the Project Review Board

7th September - meeting of the Scrutiny Board, 6pm

15th September - Constitution Committee, 6pm

15th September – Council following Constitution Committee