

# Overview and Scrutiny Management Board

25 March 2014



## Review of Overview and Scrutiny Co-optee Arrangements

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### Report of Lorraine O'Donnell, Assistant Chief Executive

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#### Purpose of Report

- 1 To present a draft proposal for updating the Council's Overview and Scrutiny Committee non-voting co-optee arrangements, for consideration by members.

#### Background

- 2 The Centre for Public Scrutiny publication "Pulling it all together" sets out the legislative framework which has led to the development of co-option within Overview and Scrutiny since 2000. This can be summarised thus:-

LEGISLATION	CO-OPTION DEVELOPED
Local Government and Housing Act 1989	Section 13 allows the appointment of non-voting co-optees onto Council Committees
Education Act 1996	Section 499 makes provision for the appointment of various statutory education co-optees, to sit on the council's education committee.
Local Government Act 2000	Established Overview and Scrutiny and Section 9FA (Subsections 4 and 5) states that OSCs may co-opt members from outside the authority (as non-voting members)  Parent Governor Representatives (England) Regulations 2001 (SI 2001/478) (PGR 2001) Requirements (clause 3) – LEAs should appoint at least two and not more than 5 PGRs to "each of their education OSCs".
Health and Social Care Act 2001 and associated guidance	Enabled Local Authorities with Social Care responsibilities to co-opt District Council members onto their Health Scrutiny Committees.
Police and Justice Act 2006 and the subsequent Crime and Disorder (Overview and Scrutiny) Regulations 2009	Clause 3 – Crime and Disorder Scrutiny Committees may co-opt representatives of CDRP partners as non-voting members of the committee.

- 3 Set against this legislative backdrop and in accordance with the Overview and Scrutiny procedure rules contained in the Council's Constitution, each of the Council's Scrutiny Committees is entitled to appoint a maximum of six people as non-voting co-optees either as standing members of the Committee or on a time limited basis. The selection and nomination of co-opted members is undertaken in accordance with the protocol agreed by the Overview and Scrutiny Management Board.
- 4 In addition, the Overview and Scrutiny Management Board and each relevant Scrutiny Committee dealing with education matters is required to include in its membership the following voting representatives:
  - (a) 1 Church of England diocese representative;
  - (b) 1 Roman Catholic diocese representative; and
  - (c) 3 parent governor representatives (the Council has experienced difficulties in appointing PGR representatives with only one of these vacancies currently filled).
- 5 A relevant Scrutiny Committee in this paragraph is a Scrutiny Committee of a Local Education Authority, where the Committee's functions relate wholly or in part to any education functions which are the responsibility of the authority's Executive.
- 6 In addition the Safer and Stronger Communities Overview and Scrutiny Committee has in accordance with the Crime and Disorder (Overview and Scrutiny) Regulations 2009, the ability to co-opt employees or officers of a CDRP partner body as additional non-voting members.

### **Current Position**

- 7 Currently non-voting co-optees serve on the following 5 Overview and Scrutiny Committees:
  - Children and Young Peoples Overview and Scrutiny Committee.
  - Environment and Sustainable Communities Overview and Scrutiny Committee.
  - Safer and Stronger Communities Overview and Scrutiny Committee.
  - Economy and Enterprise Overview and Scrutiny Committee.
  - Adults, Wellbeing and Health Overview and Scrutiny Committee.
- 8 Currently we have 21 non-voting co-optees serving on the various Overview and Scrutiny committees. Vacancies currently exist on the following Scrutiny committees:
  - Adults, Wellbeing and Health OSC – 1vacancy.
  - Safer and Stronger Communities OSC – 1 vacancy.
  - Children and Young People's OSC – 5 vacancies.
  - Environment and Sustainable Communities OSC -1 vacancy.
  - Economy and Enterprise OSC – 1vacancy.

- 9 In relation to the mix of currently serving non-voting co-optees, they represent geographically North, South, East, West and Central Durham with the split in relation to the gender being 13 males and 8 females. In relation to age, 12 of the currently serving non-voting co-optees are of retirement age and over.
- 10 The term of office for the current co-optees ceases with effect from 21 May 2014 and this provides the Council with an opportunity to review its arrangements for the appointment of non-voting co-optees.

### **Comparison with other Local Authorities**

- 11 In terms of how we compare to other authorities, there are a range of different arrangements nationally in relation to the co-option of non-statutory representatives on scrutiny.
- 12 As part of the CIPFA Democratic Services Benchmarking survey for 2013, respondents were asked “Apart from statutory co-optees, do you co-opt non-Councillors to your scrutiny committee?”
- 13 Of the 46 Councils who responded:-
- 13 Councils indicated that they did not appoint any non-statutory co-optees to their scrutiny Committee
  - 33 Councils did appoint non statutory co-optees, although 3 of these were County Councils whose co-optees were from District Councils within their “two-tier” area and sat on the health scrutiny committee.
  - 6 Councils appointed co-optees for the duration of Task and Finish/Review group activity only.
  - The most commonplace engagement of non-statutory co-optees was to a Health Scrutiny Committee; Children/Young Peoples OSC or the designated Crime and Disorder OSC.
- 14 There is no up to date national comparative information on the number of co-optees that councils appoint nationally, but a survey carried out by the Centre for Public Scrutiny (CfPS) in 2005 found that on average there were four non-statutory co-opted members appointed to the scrutiny function, but this ranged from none to 43.
- 15 Regionally, of the Councils that responded to a request for this information (9 out of 12) only Darlington B.C. appoints co-optees to Overview and Scrutiny Committees, although the remainder engage co-optees as part of scrutiny review/task and finish activity.

## Costs

- 16 The County Council does not pay a special responsibility allowance to its co-optees, although co-optees can claim for travelling and subsistence costs to be reimbursed.
- 17 For the financial years 2011/12 and 2012/13, the costs of this arrangement have been £1506 and £1785 respectively. There are also ongoing costs of officer time in supporting co-optees and dealing with training and queries. In addition there are periodic costs associated with the recruitment process which were £1100 in 2010 excluding member and officer time.

## Proposal

- 18 Non-statutory, non-voting co-optees are enabled through legislation and are a part of the scrutiny process in most councils nationally. However there are ongoing costs associated with co-optee support, and there have been some difficulties in filling the 30 co-optee places and low levels of attendance by some co-optees.
- 19 In order to develop proposals, initial discussions were held with the Chair and Vice Chair of OSMB, who then consulted with the Chairs and Vice Chairs of all overview and scrutiny committees plus minority party representatives. Following these discussions, it is proposed to reduce the number of non-statutory, non-voting co-optees to the five thematic Overview and Scrutiny Committees to 2 non-voting co-optees each (giving a maximum of 10 co-optees in total) and remove all non-statutory, non-voting co-optees to the Overview and Scrutiny Management Board.
- 20 This would not affect the ongoing inclusion of statutory, voting parent-governor and diocesan representatives on Overview and Scrutiny Management Board and Children and Young People's Committees, as the committees dealing with education matters. The additional arrangements for CDRP partner non-voting co-optees on Safer Stronger Overview and Scrutiny Committees are also proposed to be unchanged.
- 21 The renewal of non-statutory non-voting co-optees would be done by way of an appointments process that would require all current co-optees to re-apply alongside any potential new applicants. The appointments would be through an application and interview process involving the Chairs and Vice Chairs of the Overview and Scrutiny Management Board and each respective OSC, a minority party member together with the Head of Planning and Performance, as the Council's designated lead scrutiny officer. The process will be open to applicants from across the whole county, with reasonable adjustments for disabled applicants.
- 22 Existing non-voting co-optees will receive a letter from the Chair of Overview and Scrutiny Management Board thanking them for their valuable contribution, referring to the refresh of the co-optee arrangements and asking them to indicate whether they would wish to be considered for a further term of office under the new arrangements.

- 23 It is suggested that the appointments process be undertaken in accordance with the principles adopted within the protocol for the appointment of non-statutory, non-voting co-optees.
- 24 It allows the continued engagement of public and community representatives together with key partner organisations within the Council's Overview and Scrutiny process. In doing so, an external element of challenge and accountability is brought thus ensuring that the decisions made are open and transparent and at the same time have regard for the views of local people.
- 25 It provides an opportunity for the Overview and Scrutiny Committees to refresh their co-opted membership and bring new community representatives into the process whilst at the same time allowing recent changes to Overview and Scrutiny functions to be reflected within the expertise available from co-opted representatives, i.e. Flooding, new NHS landscape.
- 26 The cost of advertising and appointment of co-optees would be reduced as fewer vacancies are available and a more generic recruitment process could be adopted. Lower costs associated with travel and subsistence claims from co-optees would also be realised and would provide a further contribution towards the Council's required reductions in respect of its MTFP.

## **Summary and Conclusion**

- 27 The appointment of co-optees by the Council's Overview and Scrutiny Committees has been a feature of the Council's scrutiny process since its inception in 2000.
- 28 It has been welcomed by Councillors as a positive means by which the Council and its Overview and Scrutiny Committees can engage local people, community organisations and key partners in the decision making process, bringing openness and transparency to the Council's democratic arrangements.
- 29 There is a breadth of knowledge that co-optees bring to the Overview and Scrutiny Committees be that as recipients of services, representatives of key partners who deliver services alongside the Council, as representatives of the Community and voluntary sector, as parish council representatives or as lay individuals with skill sets that align to the work of specific Overview and Scrutiny Committees.
- 30 In examining the approach adopted by other local authorities, it is clear that the majority of Council's do engage co-opted members as part of the Scrutiny process to bring this independent challenge and openness, albeit numbers and mechanisms vary.
- 31 It is clear that the Council has experienced some difficulties in maintaining the maximum number of co-optees for each Overview and Scrutiny Committee and it is also apparent that attendance by co-optees across the OSCs has been piecemeal with significant numbers of absences having been recorded.

- 32 The cost associated with appointing co-optees is relatively low. Consideration needs to be given to the benefits brought by the engagement of co-optees including the fact that it enables community views and representations to be factored into the decision making process. This is essential given the size of the local authority and the number of people it serves.
- 33 In light of the above analysis, the Scrutiny team consider that it is important to retain the input of non-statutory, non-voting co-optees to the Council's Overview and Scrutiny Committees but acknowledge the need to ensure that the appointments process is cost effective and that the costs associated with supporting larger committees and of non-voting co-optees' attendances at meetings are manageable.
- 34 The proposed changes would need to be reflected in amendments to the council's constitution, which is updated annually, and the subject of a separate report.

### **Recommendations**

- 35 Members are asked to consider and agree the aforementioned proposals to reduce the number of non-statutory, non-voting co-optees as set out in paragraph 19.

### **Background Papers**

- Centre for Public Scrutiny – “Bringing it all together” report 2012

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## **Appendix 1: Implications**

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**Finance** – A small reduction in ongoing costs is associated with the proposal.

**Staffing** - None

**Risk** - None

**Equality and Diversity/Public Sector Equality Duty** - None

**Accommodation** - None

**Crime and Disorder** - None

**Human Rights** - None

**Consultation** - None

**Procurement** - None

**Disability Issues** - None

**Legal Implications** – Should the changes be agreed, a change to the Council's constitution will be required to reflect the new co-optee arrangements.