

House of Commons – Communities and Local Government Committee
First Report of Session 2017-19: Effectiveness of Local Authority Overview
and Scrutiny Committees – published 15 December 2017
Summary of Conclusions and Recommendations with outcomes

The role of scrutiny

1. We therefore recommend that the guidance issued to councils by DCLG on overview and scrutiny committees is revised and reissued to take account of scrutiny's evolving role.

Outcome – new statutory guidance published in May 2019.

2. We call on the Local Government Association (LGA) to consider how it can best provide a mechanism for the sharing of innovation and best practice across the scrutiny sector to enable committees to learn from one another. We recognise that how scrutiny committees operate is a matter of local discretion, but urge local authorities to take note of the findings of this report and consider their approach.

Outcome – In a briefing on its role for the House of Commons debate on Overview and Scrutiny Committees on 17 May 2018 the LGA stated that advice on scrutiny arrangements is just one aspect of the LGA's support offer to Councils in England, which also includes carrying out over 100 peer challenges each year, training and developing over 700 Councillors, helping Councils deliver savings, as well as specific support on issues such as housing and community cohesion. The LGA funds the Centre for Public Scrutiny (CfPS) to provide support to specific councils and to capture and share good practice. It also provides specific leadership training for chairs of scrutiny. The LGA has published evaluation of its leadership programmes which found that 95 per cent of participating councillors said their objectives had been fully or largely achieved. Eight out of 10 said their goals were to develop their capacity to lead and to network and learn from other councillors, and that these goals had been met. Ninety-six per cent also felt greatly or moderately more confident in their role as a Councillor having taken part at least one programme.

Party politics and organisational culture

3. However, all responsible council leaderships should recognise the potential added value that scrutiny can bring, and heed the lessons of high profile failures of scrutiny such as those in Mid Staffordshire and Rotherham.
4. To reflect scrutiny's independent voice and role as a voice for the community, we believe that scrutiny committees should report to Full Council rather than the executive and call on the Government to make this clear in revised and reissued guidance. When scrutiny committees publish formal recommendations and conclusions, these should be considered by a meeting of the Full Council, with the executive response reported to a subsequent Full Council within two months.

Outcome – The new Statutory Guidance does not prescribe this but instead asks each Council to consider how to maintain the interest of full Council in the work of scrutiny and ensure that Council is informed of the work scrutiny is doing.

5. We believe that executive members should attend meetings of scrutiny committees only when invited to do so as witnesses and to answer questions from the committee. Any greater involvement by the executive, especially sitting at the committee table with the committee, risks unnecessary politicisation of meetings and can reduce the effectiveness of scrutiny by diminishing the role of scrutiny members. We therefore recommend that DCLG strengthens the guidance to councils to promote political impartiality and preserve the distinction between scrutiny and the executive.

Outcome – this recommendation was accepted by the Government and the new Statutory Guidance emphasises the importance of a clear delineation between the role of the Executive and the role of Overview and Scrutiny. The guidance states clearly that the Executive should not try to exercise control over the work of a Scrutiny Committee.

6. It is vital that the role of scrutiny chair is respected and viewed by all as being a key part of the decision-making process, rather than as a form of political patronage.

Outcome – the importance of the leadership role of Scrutiny Chairmen is covered in the new Statutory Guidance

7. We believe that there are many effective and impartial scrutiny chairs working across the country, but we are concerned that how chairs are appointed has the potential to contribute to lessening the independence of scrutiny committees and weakening the legitimacy of the scrutiny process. Even if impropriety does not occur, we believe that an insufficient distance between executive and scrutiny can create a perception of impropriety.
8. We believe that there is great merit in exploring ways of enhancing the independence and legitimacy of scrutiny chairs such as a secret ballot of non-executive councillors. However, we are wary of proposing that it be imposed upon authorities by government.

Outcome – The new Statutory Guidance says the method for selecting Overview and Scrutiny Chairmen is for each Local Authority to decide and that Local Authorities should consider selecting Overview and Scrutiny Chairmen by taking a vote by secret ballot.

Accessing information

9. Scrutiny committees that are seeking information should never need to be 'determined' to view information held by its own authority, and there is no justification for a committee having to resort to using Freedom of Information powers to access the information that it needs, especially from its own organisation. There are too many examples of councils being uncooperative and obstructive.
10. Councils should be reminded that there should always be an assumption of transparency wherever possible, and that councillors scrutinising services need access to all financial and performance information held by the authority.
11. We do not believe that there should be any restrictions on scrutiny members' access to information based on commercial sensitivity issues. Limiting rights of access to items already under consideration for scrutiny limits committees' ability to identify issues that might warrant further investigation in future, and reinforces scrutiny's subservience to the executive. Current legislation effectively requires scrutiny councillors to establish that they have a 'need to know' in order to access confidential or exempt information, with many councils interpreting this as not automatically including scrutiny committees. We believe that scrutiny committees should be seen as having an automatic need to know, and that the Government should make this clear through revised guidance.

Outcome – The Government response acknowledged that Scrutiny Committees already had powers to access documents and the revised Statutory Guidance includes a whole section on power to access information which stresses that whilst Councils should judge each request to access sensitive information on its merits Authorities should adopt a default position of sharing the information they hold on request, with Scrutiny Committee members. However, the Guidance also acknowledges that the law recognises that there might be instances where it is legitimate for an Authority to withhold information.

12. We note that few committees make regular use of external experts and call on councils to seek to engage local academics, and encourage universities to play a greater role in local scrutiny.

Outcome - The new Statutory Guidance encourages Councils to seek out technical advice which might involve local experts who can provide advice and assistance in evaluating evidence.

13. We commend such examples of committees engaging with service users when forming their understanding of a given subject, and encourage scrutiny committees across the country to consider how the information they receive from officers can be complemented and contrasted by the views and experiences of service users.

Outcome – The new Statutory Guidance encourages Local Authorities to ensure scrutiny has a profile in the wider community and recommends a focus on public engagement – see recommendation 18 below.

Resources

14. We acknowledge that scrutiny resources have diminished in light of wider local authority reductions. However, it is imperative that scrutiny committees have access to independent and impartial policy advice that is as free from executive influence as possible. We are concerned that in too many councils, supporting the executive is the over-riding priority, with little regard for the scrutiny function. This is despite the fact that at a time of limited resources, scrutiny's role is more important than ever.
15. We therefore call on the Government to place a strong priority in revised and reissued guidance to local authorities that scrutiny committees must be supported by officers that can operate with independence and provide impartial advice to scrutiny councillors. There should be a greater parity of esteem between scrutiny and the executive, and committees should have the same access to the expertise and time of senior officers and the chief executive as their cabinet counterparts. Councils should be required to

publish a summary of resources allocated to scrutiny, using expenditure on executive support as a comparator. We also call on councils to consider carefully their resourcing of scrutiny committees and to satisfy themselves that they are sufficiently supported by people with the right skills and experience.

Outcome - Resourcing of the Scrutiny function is covered in the new Statutory Guidance which is clear that ultimately it is up to each Authority to decide on the resources it provides and states that Local Authorities should recognise that creating and sustaining an effective scrutiny function requires allocation of resources. The guidance also says that Officers supporting Scrutiny should be able to provide impartial advice. The Government rejected the recommendation that a summary of resources allocated to scrutiny should have to be published.

16. We recommend that the Government extend the requirement of a Statutory Scrutiny Officer to all councils and specify that the post-holder should have a seniority and profile of equivalence to the council's corporate management team. To give greater prominence to the role, Statutory Scrutiny Officers should also be required to make regular reports to Full Council on the state of scrutiny, explicitly identifying any areas of weakness that require improvement and the work carried out by the Statutory Scrutiny Officer to rectify them.

Outcome - The Government did not accept this recommendation and stated resourcing decisions should be made at a local level and that the key requirement for effective scrutiny is having the right organisational culture. The new Statutory Guidance does say that Authorities not required by law to appoint a Statutory Scrutiny Officer should consider whether doing so would be appropriate to their needs.

Member training and skills

17. It is incumbent upon councils to ensure that scrutiny members have enough prior subject knowledge to prevent meetings becoming information exchanges at the expense of thorough scrutiny. Listening and questioning skills are essential, as well as the capacity to constructively critique the executive rather than following party lines. In the absence of DCLG monitoring, we are not satisfied that the training provided by the LGA and its partners always meets the needs of scrutiny councillors, and call on the Department to put monitoring systems in place and consider whether the support to committees needs to be reviewed and refreshed. We invite the Department to write to us in a year's time detailing its assessment of the value for money of its investment in the LGA and on the wider effectiveness of local authority scrutiny committees.

Outcome -The Government did not accept this recommendation but did commit set out in its 2018/2019 Memorandum of understanding with the LGA its expectation that the LGA remains responsive to feedback it receives from the sector on its support work to ensure that all training, including scrutiny training, remains relevant and effective. The new Statutory Guidance says Local Authorities should consider the training requirements of Scrutiny Members and support officers when deciding on the level of resources to allocate to the scrutiny function.

The role of the public

18. The Government should promote the role of the public in scrutiny in revised and reissued guidance to authorities, and encourage council leaderships to allocate sufficient resources to enable it to happen. Councils should also take note of the issues discussed elsewhere in this report regarding raising the profile and prominence of the scrutiny process, and in so doing encourage more members of the public to participate in local scrutiny. Consideration also need to be given to the role of digital engagement, and we believe that local authorities should commit time and resources to effective digital engagement strategies. The LGA should also consider how it can best share examples of best practise of digital engagement to the wider sector.

Outcome - The Government responded by saying that it fully believes that Local Authorities should take account of the views of the public and service users in order to shape and improve their services. The new Statutory Guidance says Local Authorities should ensure scrutiny has a profile in the wider community and recommends a focus on public engagement with involvement of Communications Officers.

Scrutinising public services provided by external bodies

19. Scrutiny committees must be able to monitor and scrutinise the services provided to residents. This includes services provided by public bodies and those provided by commercial organisations. Committees should be able to access information and require attendance at meetings from service providers and we call on DCLG to take steps to ensure this happens. We support the CfPS proposal that committees must be able to 'follow the council pound' and have the power to oversee all taxpayer-funded services.

Outcome - The new Statutory Guidance says Local Authorities should, where relevant, provide assistance to scrutiny to obtain information from organisations the Council has contracted to deliver services. The guidance says, in particular, when agreeing contracts with these bodies Local Authorities should consider whether it would be appropriate to include a

requirement for them to supply information to or appear before a Scrutiny Committee.

20. In light of our concerns regarding public oversight of LEPs, we call on the Government to make clear how these organisations are to have democratic, and publicly visible, oversight. We recommend that upper tier councils, and combined authorities where appropriate, should be able to monitor the performance and effectiveness of LEPs through their scrutiny committees. In line with other public bodies, scrutiny committees should be able to require LEPs to provide information and attend committee meetings as required.

Outcome - In its response to the Select Committee's recommendations the Government agreed on the importance of clear and transparent oversight of LEPs. Whilst there is no reference to scrutiny of LEPS in the new Statutory Scrutiny Guidance there is a section on the accountability of LEPs and scrutiny arrangements in the MHCLG National Growth Assurance Framework which was published in January 2019.

Scrutiny in combined authorities

21. We are concerned that effective scrutiny of the Metro Mayors will be hindered by under-resourcing, and call on the Government to commit more funding for this purpose. When agreeing further devolution deals and creating executive mayors, the Government must make clear that scrutiny is a fundamental part of any deal and that it must be adequately resourced and supported.

Outcome - The Government accepted this recommendation. In addition to additional Government funding to boost new Mayors' capacity and resources there is specific reference in the new Statutory Scrutiny guidance to the particular importance of a strong organisational culture that supports scrutiny work in Authorities with a directly-elected Mayor.