

Supplementary Agenda

Audit & Governance Committee



SURREY
COUNTY COUNCIL

Date & time

Thursday, 26
September 2019
at 10.30 am

Place

Committee Room C,
County Hall, Kingston
upon Thames, Surrey
KT1 2DN

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Chief Executive

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This meeting will be held in public. If you would like to attend and you have any special requirements, please contact Amelia Christopher on 0208 213 2838.

Members

Mr David Harmer (Chairman), Mr Keith Witham (Vice-Chairman), Mr Edward Hawkins, Dr Peter Szanto, Mr Stephen Spence and Mr Stephen Cooksey

Ex Officio:

Mr Tim Oliver (Leader of the Council), Mr Colin Kemp (Deputy Leader), Mr Tony Samuels (Chairman of the Council), Mrs Helyn Clack (Vice-Chairman of the Council) and Joanna Killian (Chief Executive)

SUPPLEMENTARY AGENDA

11 GOVERNANCE REVIEW: CHANGES TO SCRUTINY

(Pages 1
- 58)

For the Committee to discuss the Terms of Reference of the proposed Audit and Governance Task Group concerning the 2019/20 Review of the Effectiveness of the Council's Scrutiny Function.

Annexes:

1. Ministry of Housing, Communities and Local Government - Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities
2. Centre for Public Scrutiny (CfPS) - The Scrutiny Evaluation Framework

Joanna Killian
Chief Executive

Published: 23 September 2019

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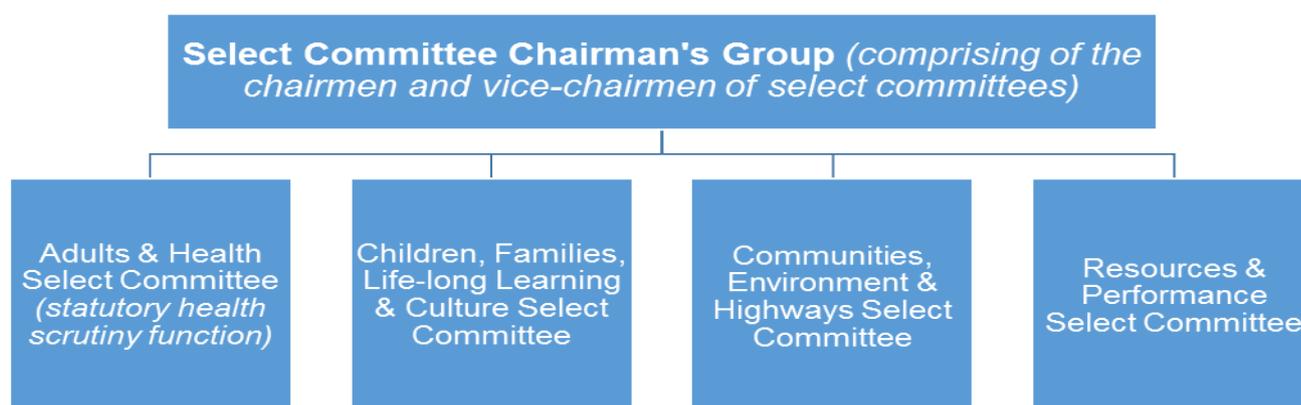
AUDIT AND GOVERNANCE COMMITTEE TASK GROUP

2019/20 Review of the Effectiveness of the Council's Scrutiny Function

Membership of the Effectiveness of Scrutiny Task Group – to be decided.

Purpose of the task group:

- 1 In May 2019 the County Council approved a new scrutiny structure as set out below.



- 1 In addition, the Housing, Communities & Local Government Select Committee ran an inquiry into the effectiveness of local government overview and scrutiny during 2017-18 and made recommendations to the Government¹ and although the majority were not accepted it did lead to the publication of the Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities in May.
- 2 It was agreed that the Audit and Governance Committee, as the Committee charged with responsibility for governance, is best placed to undertake a review of the effectiveness of the Council's scrutiny function on behalf of the County Council and establish a Task Group at the September committee meeting to carry out the 2019/20 review.

Scope of the review:

- 3 The review will examine the effectiveness of the Council's select committees and compliance with the new Statutory Guidance as well as undertake an assessment of the effectiveness of the scrutiny function against the Centre for Public Scrutiny's 'Scrutiny Evaluation Framework'.

The review:

- 4 A number of supporting documents will be provided to the task group to enable members to fully understand the role of scrutiny and best practice requirements prior to starting the review.

¹ Housing, Communities & Local Government Select Committee, *1st Report – Effectiveness of Local Authority Overview & Scrutiny Committees* available at: <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/369/36902.htm> (As accessed 13 May 2019).

5 Key areas of the review include:

Ministry of Housing, Communities and Local Government (MHCLG) - Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities

6 A self-assessment will be completed using the criteria set out within the new Statutory Guidance to assess compliance (Annex 1). Documents will also be collected from the Democratic Services team to evidence compliance with the various aspects of the Guidance.

Centre for Public Scrutiny (CfPS) – The Scrutiny Evaluation Framework

7 The CfPS has produced a framework to assist with reviewing, evaluating and improving local government scrutiny and governance arrangements (Annex 2). This sets out various characteristics of good scrutiny that the Audit and Governance Committee can use to undertake a self-assessment of the scrutiny function against the best practice standards set out in the document.

Stakeholder questionnaires

8 Questionnaires could be sent out to a number of stakeholder groups to get their feedback and thoughts on the effectiveness of the scrutiny function and the Council's four select committees.

Stakeholder interviews

9 It is proposed that a cross section of members and officers will be consulted in order to give a practical balance to the review. It is suggested that the following stakeholders be consulted:

- Chief Executive
- Leader of the Council
- A Cabinet Member
- Select Committee Chairmen and Vice-chairmen
- The Chairman of the Select Committee Chairman's Group
- Officers that have recently attended select committee meetings as witnesses

Observation of Select Committee meetings and task group meetings

10 Although limitations on time might prevent attendance at all select committees meetings, it is proposed that members of the task group attend a range of select committee meetings to observe how these run.

Timeline:

11 The final report on the 2019/20 review will be presented to the Audit and Governance Committee when the review has concluded.

Support to the task group:

12 The task group will be fully supported by Vicky Hibbert, Governance Lead Manager (Statutory Scrutiny Officer), Ross Pike, Committees Business Manager and Joss Butler, Committee Manager from the Democratic Services team.



Ministry of Housing,
Communities &
Local Government

Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities



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Ministerial Foreword

The role that overview and scrutiny can play in holding an authority's decision-makers to account makes it fundamentally important to the successful functioning of local democracy. Effective scrutiny helps secure the efficient delivery of public services and drives improvements within the authority itself. Conversely, poor scrutiny can be indicative of wider governance, leadership and service failure.

It is vital that councils and combined authorities know the purpose of scrutiny, what effective scrutiny looks like, how to conduct it and the benefits it can bring. This guidance aims to increase understanding in all four areas.

In writing this guidance, my department has taken close note of the House of Commons Select Committee report of December 2017, as well as the written and oral evidence supplied to that Committee. We have also consulted individuals and organisations with practical involvement in conducting, researching and supporting scrutiny.

It is clear from speaking to these practitioners that local and combined authorities with effective overview and scrutiny arrangements in place share certain key traits, the most important being a strong organisational culture. Authorities who welcome challenge and recognise the value scrutiny can bring reap the benefits. But this depends on strong commitment from the top - from senior members as well as senior officials.

Crucially, this guidance recognises that authorities have democratic mandates and are ultimately accountable to their electorates, and that authorities themselves are best-placed to know which scrutiny arrangements are most appropriate for their own individual circumstances.

I would, however, strongly urge all councils to cast a critical eye over their existing arrangements and, above all, ensure they embed a culture that allows overview and scrutiny to flourish.



A handwritten signature in blue ink, appearing to read 'Rishi Sunak'.

Rishi Sunak MP
Minister for Local Government

About this Guidance

Who the guidance is for

This document is aimed at local authorities and combined authorities in England to help them carry out their overview and scrutiny functions effectively. In particular, it provides advice for senior leaders, members of overview and scrutiny committees, and support officers.

Aim of the guidance

This guidance seeks to ensure local authorities and combined authorities are aware of the purpose of overview and scrutiny, what effective scrutiny looks like, how to conduct it effectively and the benefits it can bring.

As such, it includes a number of policies and practices authorities should adopt or should consider adopting when deciding how to carry out their overview and scrutiny functions.

The guidance recognises that authorities approach scrutiny in different ways and have different processes and procedures in place, and that what might work well for one authority might not work well in another.

The hypothetical scenarios contained in the annexes to this guidance have been included for illustrative purposes, and are intended to provoke thought and discussion rather than serve as a 'best' way to approach the relevant issues.

While the guidance sets out some of the key legal requirements, it does not seek to replicate legislation.

Status of the guidance

This is statutory guidance from the Ministry of Housing, Communities and Local Government. Local authorities and combined authorities must have regard to it when exercising their functions. The phrase 'must have regard', when used in this context, does not mean that the sections of statutory guidance have to be followed in every detail, but that they should be followed unless there is a good reason not to in a particular case.

Not every authority is required to appoint a scrutiny committee. This guidance applies to those authorities who have such a committee in place, whether they are required to or not.

This guidance has been issued under section 9Q of the Local Government Act 2000 and under paragraph 2(9) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009, which requires authorities to have regard to this guidance. In addition, authorities may have regard to other material they might choose to consider, including that issued by the Centre for Public Scrutiny, when exercising their overview and scrutiny functions.

Terminology

Unless 'overview' is specifically mentioned, the term 'scrutiny' refers to both overview and scrutiny.¹

Where the term 'authority' is used, it refers to both local authorities and combined authorities.

Where the term 'scrutiny committee' is used, it refers to an overview and scrutiny committee and any of its sub-committees. As the legislation refers throughout to powers conferred on scrutiny committees, that is the wording used in this guidance. However, the guidance should be seen as applying equally to work undertaken in informal task and finish groups, commissioned by formal committees.

Where the term 'executive' is used, it refers to executive members.

For combined authorities, references to the 'executive' or 'cabinet' should be interpreted as relating to the mayor (where applicable) and all the authority members.

For authorities operating committee rather than executive arrangements, references to the executive or Cabinet should be interpreted as relating to councillors in leadership positions.

Expiry or review date

This guidance will be kept under review and updated as necessary.

¹ A distinction is often drawn between 'overview' which focuses on the development of policy, and 'scrutiny' which looks at decisions that have been made or are about to be made to ensure they are fit for purpose.

1. Introduction and Context

1. Overview and scrutiny committees were introduced in 2000 as part of new executive governance arrangements to ensure that members of an authority who were not part of the executive could hold the executive to account for the decisions and actions that affect their communities.
2. Overview and scrutiny committees have statutory powers² to scrutinise decisions the executive is planning to take, those it plans to implement, and those that have already been taken/implemented. Recommendations following scrutiny enable improvements to be made to policies and how they are implemented. Overview and scrutiny committees can also play a valuable role in developing policy.

Effective overview and scrutiny should:

- Provide constructive 'critical friend' challenge;
- Amplify the voices and concerns of the public;
- Be led by independent people who take responsibility for their role; and
- Drive improvement in public services.

3. The requirement for local authorities in England to establish overview and scrutiny committees is set out in sections 9F to 9FI of the Local Government Act 2000 as amended by the Localism Act 2011.
4. The Localism Act 2011 amended the Local Government Act 2000 to allow councils to revert to a non-executive form of governance - the 'committee system'. Councils who adopt the committee system are not required to have overview and scrutiny but may do so if they wish. The legislation has been strengthened and updated since 2000, most recently to reflect new governance arrangements with combined authorities. Requirements for combined authorities are set out in Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009.
5. Current overview and scrutiny legislation recognises that authorities are democratically-elected bodies who are best-placed to determine which overview and scrutiny arrangements best suit their own individual needs, and so gives them a great degree of flexibility to decide which arrangements to adopt.
6. In producing this guidance, the Government fully recognises both authorities' democratic mandate and that the nature of local government has changed in recent years, with, for example, the creation of combined authorities, and councils increasingly delivering key services in partnership with other organisations or outsourcing them entirely.

² Section 9F of the Local Government Act 2000; paragraph 1 of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009.

2. Culture

7. The prevailing organisational culture, behaviours and attitudes of an authority will largely determine whether its scrutiny function succeeds or fails.
8. While everyone in an authority can play a role in creating an environment conducive to effective scrutiny, it is important that this is led and owned by members, given their role in setting and maintaining the culture of an authority.
9. Creating a strong organisational culture supports scrutiny work that can add real value by, for example, improving policy-making and the efficient delivery of public services. In contrast, low levels of support for and engagement with the scrutiny function often lead to poor quality and ill-focused work that serves to reinforce the perception that it is of little worth or relevance.
10. Members and senior officers should note that the performance of the scrutiny function is not just of interest to the authority itself. Its effectiveness, or lack thereof, is often considered by external bodies such as regulators and inspectors, and highlighted in public reports, including best value inspection reports. Failures in scrutiny can therefore help to create a negative public image of the work of an authority as a whole.

How to establish a strong organisational culture

11. Authorities can establish a strong organisational culture by:

- a) **Recognising scrutiny's legal and democratic legitimacy** – all members and officers should recognise and appreciate the importance and legitimacy the scrutiny function is afforded by the law. It was created to act as a check and balance on the executive and is a statutory requirement for all authorities operating executive arrangements and for combined authorities.

Councillors have a unique legitimacy derived from their being democratically elected. The insights that they can bring by having this close connection to local people are part of what gives scrutiny its value.

- b) **Identifying a clear role and focus** – authorities should take steps to ensure scrutiny has a clear role and focus within the organisation, i.e. a niche within which it can clearly demonstrate it adds value. Therefore, prioritisation is necessary to ensure the scrutiny function concentrates on delivering work that is of genuine value and relevance to the work of the wider authority – this is one of the most challenging parts of scrutiny, and a critical element to get right if it is to be recognised as a strategic function of the authority (see chapter 6).

Authorities should ensure a clear division of responsibilities between the scrutiny function and the audit function. While it is appropriate for scrutiny to pay due regard to the authority's financial position, this will need to happen in the context of the formal audit role. The authority's section 151 officer should advise scrutiny on how to manage this dynamic.

While scrutiny has no role in the investigation or oversight of the authority's whistleblowing arrangements, the findings of independent whistleblowing investigations might be of interest to scrutiny committees as they consider their wider implications. Members should always follow the authority's constitution and associated Monitoring Officer directions on the matter. Further guidance on whistleblowing can be found at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/415175/bis-15-200-whistleblowing-guidance-for-employers-and-code-of-practice.pdf.

- c) **Ensuring early and regular engagement between the executive and scrutiny** – authorities should ensure early and regular discussion takes place between scrutiny and the executive, especially regarding the latter's future work programme. Authorities should, though, be mindful of their distinct roles:

In particular:

- The executive should not try to exercise control over the work of the scrutiny committee. This could be direct, e.g. by purporting to 'order' scrutiny to look at, or not look at, certain issues, or indirect, e.g. through the use of the whip or as a tool of political patronage, and the committee itself should remember its statutory purpose when carrying out its work. All members and officers should consider the role the scrutiny committee plays to be that of a 'critical friend' not a de facto 'opposition'. Scrutiny chairs have a particular role to play in establishing the profile and nature of their committee (see chapter 4); and
- The chair of the scrutiny committee should determine the nature and extent of an executive member's participation in a scrutiny committee meeting, and in any informal scrutiny task group meeting.

- d) **Managing disagreement** – effective scrutiny involves looking at issues that can be politically contentious. It is therefore inevitable that, at times, an executive will disagree with the findings or recommendations of a scrutiny committee.

It is the job of both the executive and scrutiny to work together to reduce the risk of this happening, and authorities should take steps to predict, identify and act on disagreement.

One way in which this can be done is via an 'executive-scrutiny protocol' (see annex 1) which can help define the relationship between the two and mitigate any differences of opinion before they manifest themselves in unhelpful and unproductive ways. The benefit of this approach is that it provides a framework for disagreement and debate, and a way to manage it when it happens. Often,

the value of such a protocol lies in the dialogue that underpins its preparation. It is important that these protocols are reviewed on a regular basis.

Scrutiny committees do have the power to ‘call in’ decisions, i.e. ask the executive to reconsider them before they are implemented, but should not view it as a substitute for early involvement in the decision-making process or as a party-political tool.

- e) **Providing the necessary support** – while the level of resource allocated to scrutiny is for each authority to decide for itself, when determining resources an authority should consider the purpose of scrutiny as set out in legislation and the specific role and remit of the authority’s own scrutiny committee(s), and the scrutiny function as a whole.

Support should also be given by members and senior officers to scrutiny committees and their support staff to access information held by the authority and facilitate discussions with representatives of external bodies (see chapter 5).

- f) **Ensuring impartial advice from officers** – authorities, particularly senior officers, should ensure all officers are free to provide impartial advice to scrutiny committees. This is fundamental to effective scrutiny. Of particular importance is the role played by ‘statutory officers’ – the monitoring officer, the section 151 officer and the head of paid service, and where relevant the statutory scrutiny officer. These individuals have a particular role in ensuring that timely, relevant and high-quality advice is provided to scrutiny.
- g) **Communicating scrutiny’s role and purpose to the wider authority** – the scrutiny function can often lack support and recognition within an authority because there is a lack of awareness among both members and officers about the specific role it plays, which individuals are involved and its relevance to the authority’s wider work. Authorities should, therefore, take steps to ensure all members and officers are made aware of the role the scrutiny committee plays in the organisation, its value and the outcomes it can deliver, the powers it has, its membership and, if appropriate, the identity of those providing officer support.
- h) **Maintaining the interest of full Council in the work of the scrutiny committee** – part of communicating scrutiny’s role and purpose to the wider authority should happen through the formal, public role of full Council – particularly given that scrutiny will undertake valuable work to highlight challenging issues that an authority will be facing and subjects that will be a focus of full Council’s work. Authorities should therefore take steps to ensure full Council is informed of the work the scrutiny committee is doing.

One way in which this can be done is by reports and recommendations being submitted to full Council rather than solely to the executive. Scrutiny should decide when it would be appropriate to submit reports for wider debate in this way, taking into account the relevance of reports to full Council business, as well as full Council’s capacity to consider and respond in a timely manner. Such

reports would supplement the annual report to full Council on scrutiny's activities and raise awareness of ongoing work.

In order to maintain awareness of scrutiny at the Combined Authority and provoke dialogue and discussion of its impact, the business of scrutiny should be reported to the Combined Authority board or to the chairs of the relevant scrutiny committees of constituent and non-constituent authorities, or both. At those chairs' discretion, particular Combined Authority scrutiny outcomes, and what they might mean for each individual area, could be either discussed by scrutiny in committee or referred to full Council of the constituent authorities.

- i) **Communicating scrutiny's role to the public** – authorities should ensure scrutiny has a profile in the wider community. Consideration should be given to how and when to engage the authority's communications officers, and any other relevant channels, to understand how to get that message across. This will usually require engagement early on in the work programming process (see chapter 6).
- j) **Ensuring scrutiny members are supported in having an independent mindset** – formal committee meetings provide a vital opportunity for scrutiny members to question the executive and officers.

Inevitably, some committee members will come from the same political party as a member they are scrutinising and might well have a long-standing personal, or familial, relationship with them (see paragraph 25).

Scrutiny members should bear in mind, however, that adopting an independent mind-set is fundamental to carrying out their work effectively. In practice, this is likely to require scrutiny chairs working proactively to identify any potentially contentious issues and plan how to manage them.

Directly-elected mayoral systems

12. A strong organisational culture that supports scrutiny work is particularly important in authorities with a directly-elected mayor to ensure there are the checks and balances to maintain a robust democratic system. Mayoral systems offer the opportunity for greater public accountability and stronger governance, but there have also been incidents that highlight the importance of creating and maintaining a culture that puts scrutiny at the heart of its operations.
13. Authorities with a directly-elected mayor should ensure that scrutiny committees are well-resourced, are able to recruit high-calibre members and that their scrutiny functions pay particular attention to issues surrounding:
 - rights of access to documents by the press, public and councillors;
 - transparent and fully recorded decision-making processes, especially avoiding decisions by 'unofficial' committees or working groups;
 - delegated decisions by the Mayor;
 - whistleblowing protections for both staff and councillors; and
 - powers of Full Council, where applicable, to question and review.

14. Authorities with a directly-elected mayor should note that mayors are required by law to attend overview and scrutiny committee sessions when asked to do so (see paragraph 44).

3. Resourcing

15. The resource an authority allocates to the scrutiny function plays a pivotal role in determining how successful that function is and therefore the value it can add to the work of the authority.
16. Ultimately it is up to each authority to decide on the resource it provides, but every authority should recognise that creating and sustaining an effective scrutiny function requires them to allocate resources to it.
17. Authorities should also recognise that support for scrutiny committees, task groups and other activities is not solely about budgets and provision of officer time, although these are clearly extremely important elements. Effective support is also about the ways in which the wider authority engages with those who carry out the scrutiny function (both members and officers).

When deciding on the level of resource to allocate to the scrutiny function, the factors an authority should consider include:

- Scrutiny's legal powers and responsibilities;
- The particular role and remit scrutiny will play in the authority;
- The training requirements of scrutiny members and support officers, particularly the support needed to ask effective questions of the executive and other key partners, and make effective recommendations;
- The need for ad hoc external support where expertise does not exist in the council;
- Effectively-resourced scrutiny has been shown to add value to the work of authorities, improving their ability to meet the needs of local people; and
- Effectively-resourced scrutiny can help policy formulation and so minimise the need for call-in of executive decisions.

Statutory scrutiny officers

18. Combined authorities, upper and single tier authorities are required to designate a statutory scrutiny officer,³ someone whose role is to:
- promote the role of the authority's scrutiny committee;
 - provide support to the scrutiny committee and its members; and
 - provide support and guidance to members and officers relating to the functions of the scrutiny committee.

³ Section 9FB of the Local Government Act 2000; article 9 of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017

19. Authorities not required by law to appoint such an officer should consider whether doing so would be appropriate for their specific local needs.

Officer resource models

20. Authorities are free to decide for themselves which wider officer support model best suits their individual circumstances, though generally they adopt one or a mix of the following:

- Committee – officers are drawn from specific policy or service areas;
- Integrated – officers are drawn from the corporate centre and also service the executive; and
- Specialist – officers are dedicated to scrutiny.

21. Each model has its merits – the committee model provides service-specific expertise; the integrated model facilitates closer and earlier scrutiny involvement in policy formation and alignment of corporate work programmes; and the specialist model is structurally independent from those areas it scrutinises.

22. Authorities should ensure that, whatever model they employ, officers tasked with providing scrutiny support are able to provide impartial advice. This might require consideration of the need to build safeguards into the way that support is provided. The nature of these safeguards will differ according to the specific role scrutiny plays in the organisation.

4. Selecting Committee Members

23. Selecting the right members to serve on scrutiny committees is essential if those committees are to function effectively. Where a committee is made up of members who have the necessary skills and commitment, it is far more likely to be taken seriously by the wider authority.
24. While there are proportionality requirements that must be met,⁴ the selection of the chair and other committee members is for each authority to decide for itself. Guidance for combined authorities on this issue has been produced by the Centre for Public Scrutiny⁵.

Members invariably have different skill-sets. What an authority must consider when forming a committee is that, as a group, it possesses the requisite expertise, commitment and ability to act impartially to fulfil its functions.

25. Authorities are reminded that members of the executive cannot be members of a scrutiny committee.⁶ Authorities should take care to ensure that, as a minimum, members holding less formal executive positions, e.g. as Cabinet assistants, do not sit on scrutinising committees looking at portfolios to which those roles relate. Authorities should articulate in their constitutions how conflicts of interest, including familial links (see also paragraph 31), between executive and scrutiny responsibilities should be managed, including where members stand down from the executive and move to a scrutiny role, and vice-versa.
26. Members or substitute members of a combined authority must not be members of its overview and scrutiny committee.⁷ This includes the Mayor in Mayoral Combined Authorities. It is advised that Deputy Mayors for Policing and Crime are also not members of the combined authority's overview and scrutiny committee.

Selecting individual committee members

27. When selecting individual members to serve on scrutiny committees, an authority should consider a member's experience, expertise, interests, ability to act impartially, ability to work as part of a group, and capacity to serve.

⁴ See, for example, regulation 11 of the Local Authorities (Committee System) (England) Regulations 2012 (S.I. 2012/1020) and article 4 of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 (S.I. 2017/68).

⁵ See pages 15-18 of 'Overview and scrutiny in combined authorities: a plain English guide': <https://www.cfps.org.uk/wp-content/uploads/Overview-and-scrutiny-in-combined-authorities-a-plain-english-guide.pdf>

⁶ Section 9FA(3) of the Local Government Act 2000.

⁷ 2(3) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009

28. Authorities should not take into account a member's perceived level of support for or opposition to a particular political party (notwithstanding the wider legal requirement for proportionality referred to in paragraph 24).

Selecting a chair

29. The Chair plays a leadership role on a scrutiny committee as they are largely responsible for establishing its profile, influence and ways of working.

30. The attributes authorities should and should not take into account when selecting individual committee members (see paragraphs 27 and 28) also apply to the selection of the Chair, but the Chair should also possess the ability to lead and build a sense of teamwork and consensus among committee members.

Chairs should pay special attention to the need to guard the committee's independence. Importantly, however, they should take care to avoid the committee being, and being viewed as, a de facto opposition to the executive.

31. Given their pre-eminent role on the scrutiny committee, it is strongly recommended that the Chair not preside over scrutiny of their relatives⁸. Combined authorities should note the legal requirements that apply to them where the Chair is an independent person⁹.

32. The method for selecting a Chair is for each authority to decide for itself, however every authority should consider taking a vote by secret ballot. Combined Authorities should be aware of the legal requirements regarding the party affiliation of their scrutiny committee Chair¹⁰.

Training for committee members

33. Authorities should ensure committee members are offered induction when they take up their role and ongoing training so they can carry out their responsibilities effectively. Authorities should pay attention to the need to ensure committee members are aware of their legal powers, and how to prepare for and ask relevant questions at scrutiny sessions.

34. When deciding on training requirements for committee members, authorities should consider taking advantage of opportunities offered by external providers in the sector.

Co-option and technical advice

35. While members and their support officers will often have significant local insight and an understanding of local people and their needs, the provision of outside expertise can be invaluable.

⁸ A definition of 'relative' can be found at section 28(10) of the Localism Act 2011.

⁹ See article 5(2) of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 (S.I. 2017/68).

¹⁰ Article 5(6) of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.

36. There are two principal ways to procure this:

- Co-option – formal co-option is provided for in legislation¹¹. Authorities must establish a co-option scheme to determine how individuals will be co-opted onto committees; and
- Technical advisers – depending on the subject matter, independent local experts might exist who can provide advice and assistance in evaluating evidence (see annex 2).

¹¹ Section 9FA(4) Local Government Act 2000

5. Power to Access Information

37. A scrutiny committee needs access to relevant information the authority holds, and to receive it in good time, if it is to do its job effectively.
38. This need is recognised in law, with members of scrutiny committees enjoying powers to access information¹². In particular, regulations give enhanced powers to a scrutiny member to access exempt or confidential information. This is in addition to existing rights for councillors to have access to information to perform their duties, including common law rights to request information and rights to request information under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
39. When considering what information scrutiny needs in order to carry out its work, scrutiny members and the executive should consider scrutiny's role and the legal rights that committees and their individual members have, as well as their need to receive timely and accurate information to carry out their duties effectively.
40. Scrutiny members should have access to a regularly available source of key information about the management of the authority – particularly on performance, management and risk. Where this information exists, and scrutiny members are given support to understand it, the potential for what officers might consider unfocused and unproductive requests is reduced as members will be able to frame their requests from a more informed position.
41. Officers should speak to scrutiny members to ensure they understand the reasons why information is needed, thereby making the authority better able to provide information that is relevant and timely, as well as ensuring that the authority complies with legal requirements.

While each request for information should be judged on its individual merits, authorities should adopt a default position of sharing the information they hold, on request, with scrutiny committee members.

42. The law recognises that there might be instances where it is legitimate for an authority to withhold information and places a requirement on the executive to provide the scrutiny committee with a written statement setting out its reasons for that decision¹³. However, members of the executive and senior officers should take particular care to avoid refusing requests, or limiting the information they provide, for reasons of party political or reputational expediency.

¹² Regulation 17 - Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012; article 10 Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.

¹³ Regulation 17(4) – Local Government (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012; article 10(4) Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.

Before an authority takes a decision not to share information it holds, it should give serious consideration to whether that information could be shared in closed session.

43. Regulations already stipulate a timeframe for executives to comply with requests from a scrutiny member¹⁴. When agreeing to such requests, authorities should:

- consider whether seeking clarification from the information requester could help better target the request; and
- Ensure the information is supplied in a format appropriate to the recipient's needs.

44. Committees should be aware of their legal power to require members of the executive and officers to attend before them to answer questions¹⁵. It is the duty of members and officers to comply with such requests.¹⁶

Seeking information from external organisations

45. Scrutiny members should also consider the need to supplement any authority-held information they receive with information and intelligence that might be available from other sources, and should note in particular their statutory powers to access information from certain external organisations.

46. When asking an external organisation to provide documentation or appear before it, and where that organisation is not legally obliged to do either (see annex 3), scrutiny committees should consider the following:

- a) **The need to explain the purpose of scrutiny** – the organisation being approached might have little or no awareness of the committee's work, or of an authority's scrutiny function more generally, and so might be reluctant to comply with any request;
- b) **The benefits of an informal approach** – individuals from external organisations can have fixed perceptions of what an evidence session entails and may be unwilling to subject themselves to detailed public scrutiny if they believe it could reflect badly on them or their employer. Making an informal approach can help reassure an organisation of the aims of the committee, the type of information being sought and the manner in which the evidence session would be conducted;

¹⁴ Regulation 17(2) – Local Government (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012; article 10(2) Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.

¹⁵ Section 9FA(8) of the Local Government Act 2000; paragraph 2(6) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009.

¹⁶ Section 9FA(9) of the Local Government Act 2000; paragraph 2(7) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009.

- c) **How to encourage compliance with the request** – scrutiny committees will want to frame their approach on a case by case basis. For contentious issues, committees might want to emphasise the opportunity their request gives the organisation to ‘set the record straight’ in a public setting; and
- d) **Who to approach** – a committee might instinctively want to ask the Chief Executive or Managing Director of an organisation to appear at an evidence session, however it could be more beneficial to engage front-line staff when seeking operational-level detail rather than senior executives who might only be able to talk in more general terms. When making a request to a specific individual, the committee should consider the type of information it is seeking, the nature of the organisation in question and the authority’s pre-existing relationship with it.

Following ‘the Council Pound’

Scrutiny committees will often have a keen interest in ‘following the council pound’, i.e. scrutinising organisations that receive public funding to deliver goods and services.

Authorities should recognise the legitimacy of this interest and, where relevant, consider the need to provide assistance to scrutiny members and their support staff to obtain information from organisations the council has contracted to deliver services. In particular, when agreeing contracts with these bodies, authorities should consider whether it would be appropriate to include a *requirement* for them to supply information to or appear before scrutiny committees.

6. Planning Work

47. Effective scrutiny should have a defined impact on the ground, with the committee making recommendations that will make a tangible difference to the work of the authority. To have this kind of impact, scrutiny committees need to plan their work programme, i.e. draw up a long-term agenda and consider making it flexible enough to accommodate any urgent, short-term issues that might arise during the year.
48. Authorities with multiple scrutiny committees sometimes have a separate work programme for each committee. Where this happens, consideration should be given to how to co-ordinate the various committees' work to make best use of the total resources available.

Being clear about scrutiny's role

49. Scrutiny works best when it has a clear role and function. This provides focus and direction. While scrutiny has the power to look at anything which affects 'the area, or the area's inhabitants', authorities will often find it difficult to support a scrutiny function that carries out generalised oversight across the wide range of issues experienced by local people, particularly in the context of partnership working. Prioritisation is necessary, which means that there might be things that, despite being important, scrutiny will not be able to look at.
50. Different overall roles could include having a focus on risk, the authority's finances, or on the way the authority works with its partners.
51. Applying this focus does not mean that certain subjects are 'off limits'. It is more about looking at topics and deciding whether their relative importance justifies the positive impact scrutiny's further involvement could bring.
52. When thinking about scrutiny's focus, members should be supported by key senior officers. The statutory scrutiny officer, if an authority has one, will need to take a leading role in supporting members to clarify the role and function of scrutiny, and championing that role once agreed.

Who to speak to

53. Evidence will need to be gathered to inform the work programming process. This will ensure that it looks at the right topics, in the right way and at the right time. Gathering evidence requires conversations with:
- *The public* – it is likely that formal 'consultation' with the public on the scrutiny work programme will be ineffective. Asking individual scrutiny members to have conversations with individuals and groups in their own local areas can work better. Insights gained from the public through individual pieces of scrutiny work can be fed back into the work programming process. Listening to and participating in conversations in places where local people come together, including in online forums, can help authorities engage people on their own terms and yield more positive results.

Authorities should consider how their communications officers can help scrutiny engage with the public, and how wider internal expertise and local knowledge from both members and officers might make a contribution.

- *The authority's partners* – relationships with other partners should not be limited to evidence-gathering to support individual reviews or agenda items. A range of partners are likely to have insights that will prove useful:
 - Public sector partners (like the NHS and community safety partners, over which scrutiny has specific legal powers);
 - Voluntary sector partners;
 - Contractors and commissioning partners (including partners in joint ventures and authority-owned companies);
 - In parished areas, town, community and parish councils;
 - Neighbouring principal councils (both in two-tier and unitary areas);
 - Cross-authority bodies and organisations, such as Local Enterprise Partnerships¹⁷; and
 - Others with a stake and interest in the local area – large local employers, for example.

- *The executive* – a principal partner in discussions on the work programme should be the executive (and senior officers). The executive should not direct scrutiny's work (see chapter 2), but conversations will help scrutiny members better understand how their work can be designed to align with the best opportunities to influence the authority's wider work.

Information sources

54. Scrutiny will need access to relevant information to inform its work programme. The type of information will depend on the specific role and function scrutiny plays within the authority, but might include:

- Performance information from across the authority and its partners;
- Finance and risk information from across the authority and its partners;
- Corporate complaints information, and aggregated information from political groups about the subject matter of members' surgeries;
- Business cases and options appraisals (and other planning information) for forthcoming major decisions. This information will be of particular use for pre-decision scrutiny; and
- Reports and recommendations issued by relevant ombudsmen, especially the Local Government and Social Care Ombudsman.

¹⁷ Authorities should ensure they have appropriate arrangements in place to ensure the effective democratic scrutiny of Local Enterprise Partnerships' investment decisions.

As committees can meet in closed session, commercial confidentiality should not preclude the sharing of information. Authorities should note, however, that the default for meetings should be that they are held in public (see 2014 guidance on '*Open and accountable local government*':

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/343182/140812_Openness_Guide.pdf).

55. Scrutiny members should consider keeping this information under regular review. It is likely to be easier to do this outside committee, rather than bringing such information to committee 'to note', or to provide an update, as a matter of course.

Shortlisting topics

Approaches to shortlisting topics should reflect scrutiny's overall role in the authority. This will require the development of bespoke, local solutions, however when considering whether an item should be included in the work programme, the kind of questions a scrutiny committee should consider might include:

- Do we understand the benefits scrutiny would bring to this issue?
- How could we best carry out work on this subject?
- What would be the best outcome of this work?
- How would this work engage with the activity of the executive and other decision-makers, including partners?

56. Some authorities use scoring systems to evaluate and rank work programme proposals. If these are used to provoke discussion and debate, based on evidence, about what priorities should be, they can be a useful tool. Others take a looser approach. Whichever method is adopted, a committee should be able to justify how and why a decision has been taken to include certain issues and not others.

57. Scrutiny members should accept that shortlisting can be difficult; scrutiny committees have finite resources and deciding how these are best allocated is tough. They should understand that, if work programming is robust and effective, there might well be issues that they want to look at that nonetheless are not selected.

Carrying out work

58. Selected topics can be scrutinised in several ways, including:

- a) **As a single item on a committee agenda** – this often presents a limited opportunity for effective scrutiny, but may be appropriate for some issues or where the committee wants to maintain a formal watching brief over a given issue;
- b) **At a single meeting** – which could be a committee meeting or something less formal. This can provide an opportunity to have a single public meeting about a

given subject, or to have a meeting at which evidence is taken from a number of witnesses;

- c) **At a task and finish review of two or three meetings** – short, sharp scrutiny reviews are likely to be most effective even for complex topics. Properly focused, they ensure members can swiftly reach conclusions and make recommendations, perhaps over the course of a couple of months or less;
- d) **Via a longer-term task and finish review** – the ‘traditional’ task and finish model – with perhaps six or seven meetings spread over a number of months – is still appropriate when scrutiny needs to dig into a complex topic in significant detail. However, the resource implications of such work, and its length, can make it unattractive for all but the most complex matters; and
- e) **By establishing a ‘standing panel’** – this falls short of establishing a whole new committee but may reflect a necessity to keep a watching brief over a critical local issue, especially where members feel they need to convene regularly to carry out that oversight. Again, the resource implications of this approach means that it will be rarely used.

7. Evidence Sessions

59. Evidence sessions are a key way in which scrutiny committees inform their work. They might happen at formal committee, in less formal ‘task and finish’ groups or at standalone sessions.

Good preparation is a vital part of conducting effective evidence sessions. Members should have a clear idea of what the committee hopes to get out of each session and appreciate that success will depend on their ability to work together on the day.

How to plan

60. Effective planning does not necessarily involve a large number of pre-meetings, the development of complex scopes or the drafting of questioning plans. It is more often about setting overall objectives and then considering what type of questions (and the way in which they are asked) can best elicit the information the committee is seeking. This applies as much to individual agenda items as it does for longer evidence sessions – there should always be consideration in advance of what scrutiny is trying to get out of a particular evidence session.

Chairs play a vital role in leading discussions on objective-setting and ensuring all members are aware of the specific role each will play during the evidence session.

61. As far as possible there should be consensus among scrutiny members about the objective of an evidence session before it starts. It is important to recognise that members have different perspectives on certain issues, and so might not share the objectives for a session that are ultimately adopted. Where this happens, the Chair will need to be aware of this divergence of views and bear it in mind when planning the evidence session.
62. Effective planning should mean that at the end of a session it is relatively straightforward for the chair to draw together themes and highlight the key findings. It is unlikely that the committee will be able to develop and agree recommendations immediately, but, unless the session is part of a wider inquiry, enough evidence should have been gathered to allow the chair to set a clear direction.
63. After an evidence session, the committee might wish to hold a short ‘wash-up’ meeting to review whether their objectives were met and lessons could be learned for future sessions.

Developing recommendations

64. The development and agreement of recommendations is often an iterative process. It will usually be appropriate for this to be done only by members, assisted by co-optees where relevant. When deciding on recommendations, however, members should have due regard to advice received from officers, particularly the Monitoring Officer.

65. The drafting of reports is usually, but not always, carried out by officers, directed by members.
66. Authorities draft reports and recommendations in a number of ways, but there are normally three stages:
- i. the development of a 'heads of report' – a document setting out general findings that members can then discuss as they consider the overall structure and focus of the report and its recommendations;
 - ii. the development of those findings, which will set out some areas on which recommendations might be made; and
 - iii. the drafting of the full report.
67. Recommendations should be evidence-based and SMART, i.e. specific, measurable, achievable, relevant and timed. Where appropriate, committees may wish to consider sharing them in draft with interested parties.
68. Committees should bear in mind that often six to eight recommendations are sufficient to enable the authority to focus its response, although there may be specific circumstances in which more might be appropriate.

Sharing draft recommendations with executive members should not provide an opportunity for them to revise or block recommendations before they are made. It should, however, provide an opportunity for errors to be identified and corrected, and for a more general sense-check.

Annex 1: Illustrative Scenario – Creating an Executive-Scrutiny Protocol

An executive-scrutiny protocol can deal with the practical expectations of scrutiny committee members and the executive, as well as the cultural dynamics.

Workshops with scrutiny members, senior officers and Cabinet can be helpful to inform the drafting of a protocol. An external facilitator can help bring an independent perspective.

Councils should consider how to adopt a protocol, e.g. formal agreement at scrutiny committee and Cabinet, then formal integration into the Council's constitution at the next Annual General Meeting.

The protocol, as agreed, may contain sections on:

- The way scrutiny will go about developing its work programme (including the ways in which senior officers and Cabinet members will be kept informed);
- The way in which senior officers and Cabinet will keep scrutiny informed of the outlines of major decisions as they are developed, to allow for discussion of scrutiny's potential involvement in policy development. This involves the building in of safeguards to mitigate risks around the sharing of sensitive information with scrutiny members;
- A strengthening and expansion of existing parts of the code of conduct that relate to behaviour in formal meetings, and in informal meetings;
- Specification of the nature and form of responses that scrutiny can expect when it makes recommendations to the executive, when it makes requests to the executive for information, and when it makes requests that Cabinet members or senior officers attend meetings; and
- Confirmation of the role of the statutory scrutiny officer, and Monitoring Officer, in overseeing compliance with the protocol, and ensuring that it is used to support the wider aim of supporting and promoting a culture of scrutiny, with matters relating to the protocol's success being reported to full Council through the scrutiny Annual Report.

Annex 2: Illustrative Scenario – Engaging Independent Technical Advisers

This example demonstrates how one Council's executive and scrutiny committee worked together to scope a role and then appoint an independent adviser on transforming social care commissioning. Their considerations and process may be helpful and applicable in other similar scenarios.

Major care contracts were coming to an end and the Council took the opportunity to review whether to continue with its existing strategic commissioning framework, or take a different approach – potentially insourcing certain elements.

The relevant Director was concerned about the Council's reliance on a very small number of large providers. The Director therefore approached the Scrutiny and Governance Manager to talk through the potential role scrutiny could play as the Council considered these changes.

The Scrutiny Chair wanted to look at this issue in some depth, but recognised its complexity could make it difficult for her committee to engage – she was concerned it would not be able to do the issue justice. The Director offered support from his own officer team, but the Chair considered this approach to be beset by risks around the independence of the process.

She talked to the Director about securing independent advice. He was worried that an independent adviser could come with preconceived ideas and would not understand the Council's context and objectives. The Scrutiny Chair was concerned that independent advice could end up leading to scrutiny members being passive, relying on an adviser to do their thinking for them. They agreed that some form of independent assistance would be valuable, but that how it was provided and managed should be carefully thought out.

With the assistance of the Governance and Scrutiny Manager, the Scrutiny Chair approached local universities and Further Education institutions to identify an appropriate individual. The approach was clear – it set out the precise role expected of the adviser, and explained the scrutiny process itself. Because members wanted to focus on the risks of market failure, and felt more confident on substantive social care matters, the approach was directed at those with a specialism in economics and business administration. The Council's search was proactive – the assistance of the service department was drawn on to make direct approaches to particular individuals who could carry out this role.

It was agreed to make a small budget available to act as a 'per diem' to support an adviser; academics were approached in the first instance as the Council felt able to make a case that an educational institution would provide this support for free as part of its commitment to Corporate Social Responsibility.

Three individuals were identified from the Council's proactive search. The Chair and Vice-Chair of the committee had an informal discussion with each – not so much to establish their skills and expertise (which had already been assessed) but to give a sense about

their 'fit' with scrutiny's objectives and their political nous in understanding the environment in which they would operate, and to satisfy themselves that they will apply themselves even-handedly to the task. The Director sat in on this process but played no part in who was ultimately selected.

The independent advice provided by the selected individual gave the Scrutiny Committee a more comprehensive understanding of the issue and meant it was able to offer informed advice on the merits of putting in place a new strategic commissioning framework.

Annex 3: Illustrative Scenario – Approaching an External Organisation to Appear before a Committee

This example shows how one council ensured a productive scrutiny meeting, involving a private company and the public. Lessons may be drawn and apply to other similar scenarios.

Concerns had been expressed by user groups, and the public at large, about the reliability of the local bus service. The Scrutiny Chair wanted to question the bus company in a public evidence session but knew that she had no power to compel it to attend. Previous attempts to engage it had been unsuccessful; the company was not hostile, but said it had its own ways of engaging the public.

The Monitoring Officer approached the company's regional PR manager, but he expressed concern that the session would end in a 'bunfight'. He also explained the company had put their improvement plan in the public domain, and felt a big council meeting would exacerbate tensions.

Other councillors had strong views about the company – one thought the committee should tell the company it would be empty-chaired if it refused to attend. The Scrutiny Chair was sympathetic to this, but thought such an approach would not lead to any improvements.

The Scrutiny Chair was keen to make progress, but it was difficult to find the right person to speak to at the company, so she asked council officers and local transport advocacy groups for advice. Speaking to those people also gave her a better sense of what scrutiny's role might be.

When she finally spoke to the company's network manager, she explained the situation and suggested they work together to consider how the meeting could be productive for the Council, the company and local people. In particular, this provided her with an opportunity to explain scrutiny and its role. The network manager remained sceptical but was reassured that they could work together to ensure that the meeting would not be an 'ambush'. He agreed in principle to attend and also provide information to support the Committee's work beforehand.

Discussions continued in the four weeks leading up to the Committee meeting. The Scrutiny Chair was conscious that while she had to work with the company to ensure that the meeting was constructive – and secure their attendance – it could not be a whitewash, and other members and the public would demand a hard edge to the discussions.

The scrutiny committee agreed that the meeting would provide a space for the company to provide context to the problems local people are experiencing, but that this would be preceded by a space on the agenda for the Chair, Vice-chair, and representatives from two local transport advocacy groups to set out their concerns. The company were sent in

advance a summary of the general areas on which members were likely to ask questions, to ensure that those questions could be addressed at the meeting.

Finally, provision was made for public questions and debate. Those attending the meeting were invited to discuss with each other the principal issues they wanted the meeting to cover. A short, facilitated discussion in the room led by the Chair highlighted the key issues, and the Chair then put those points to the company representatives.

At the end of the meeting, the public asked questions of the bus company representative in a 20-minute plenary item.

The meeting was fractious, but the planning carried out to prepare for this – by channelling issues through discussion and using the Chair to mediate the questioning – made things easier. Some attendees were initially frustrated by this structure, but the company representative was more open and less defensive than might otherwise have been the case.

The meeting also motivated the company to revise its communications plan to become more responsive to this kind of challenge, part of which involved a commitment to feed back to the scrutiny committee on the recommendations it made on the night.

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The scrutiny evaluation framework

A mechanism for reviewing, evaluating and improving local government scrutiny and governance arrangements

processes devolution **design** principles
evaluation framework **review**
 transparency governance **research**
The scrutiny evaluation framework
A mechanism for reviewing, evaluating and
improving local government scrutiny
and governance arrangements
focus responsibilities arrangements
structure agreement commitment **maximising**

INTRODUCTION

Local government is changing. Major changes to the way that services are planned and delivered (including devolution), the financial challenge and increased demand on issues like social care mean that elected councillors are making increasingly important decisions which will have a profound impact on local people's lives for many years. Effective decision-making demands good governance. Good governance demands good scrutiny.

How can scrutiny arrangements be reviewed and improved to meet these challenges? In short, how can scrutiny be engineered to add value, make a difference to local people's lives and central to streamlined and responsive local decision-making?

This framework provides a mechanism for local authorities to address and answer these questions.

Our thanks are due to the scrutiny practitioners who provided comments on a draft of this document.

Background: where does this come from?

This framework is based on a number of earlier documents:

- Our "Accountability Works for You" framework (2011) and our scrutiny self-evaluation framework (2006), both earlier iterations of this new model;
- The fifteen "characteristics of effective scrutiny" developed following comprehensive research alongside the Wales Audit Office;
- Measures and principles relating to the impact and influence of Parliamentary select committees, based on research carried out by the Constitution Unit and the Institute for Government;
- Recent CfPS publications, in particular:
 - Tipping the scales (2012)
 - Our "Practice Guide" series (2014 / 2016)
 - The change game (2015)
 - Social return on investment (2016)
- Other models chosen and designed by local authorities for the evaluation of scrutiny.

In recent years, the amount of resource available for carrying out scrutiny in local government has lessened. Posts have been made redundant, and responsibility moved to officers, and parts of councils, who may not have had a background in working with members to support them in such a unique council function. While our early framework was designed with the "professional scrutiny officer" in mind, this framework has deliberately been drafted for officers and members who may not have a detailed understanding of scrutiny theory and practice. As such, it is more directive in its approach than previous versions. Despite this, it remains the case that councils must reflect and review their scrutiny arrangements on their own terms.

Setting up a group to take responsibility for this work

Reviews of scrutiny must be led by scrutiny councillors, and the outcomes of those reviews must also be driven by what scrutiny members have concluded. Cabinet and senior officers are important stakeholders, but the process and its conclusions are not theirs to define. For a meaningful, scrutiny member-led process to work, members need to agree principles within which they are prepared to work, and need to commit to recommending pragmatic solutions to problems which might even challenge the accepted wisdom in the authority about what scrutiny does, and what it is for.

A project group, chaired by a scrutiny councillor, may carry out the bulk of the research and analysis we describe below, but this is likely to put a substantial onus on councillors.

In practice we think it more likely that officers – or a single officer - will provide support to the group, reporting back periodically. If this is the case, we would recommend that this officer maintains regular, informal contact with members, to ensure that their expectations are being met. Additionally, we have suggested “checkpoints” at the end of every stage – points at which we think information and evidence would be considered in detail by the project group, and possibly shared with the wider member corps and other interested parties.

Importantly, this works to ensure buy-in to the eventual recommendations. In our experience, reviews which are conducted largely in private, and which then report back their findings to a wider member group which has not been part of that review process, can find it very difficult to secure buy-in and agreement to those recommendations from that wider group of members – especially if those recommendations are contentious.

Agreeing some basic design principles

For some time we have suggested that areas conducting reviews like this agree a set of “design principles” to help them to build consensus about what their governance systems will look like.

Design principles are important. They keep you focused on the way you will work under new arrangements, and help you to avoid fixating exclusively on governance structures (like the number and terms of reference of committees).

We think that local areas embarking on this work are likely to be able to come up with their own design principles, but we present some below to provide some ideas.

Principle

Members leading and owning

Some prompts

1. How should members direct the work programme?
2. Which members should be involved in leading the scrutiny process, and how?
3. What should the relationship between members and their support officers look like? What about the relationship between members and officers in service departments?
4. How does the member role influence how scrutiny and its work is presented to the wider authority, and to the area?

Flexibility

1. How will the work programme be flexible to account for unexpected issues emerging during the year?
2. What resource exists to support scrutiny's work, and how can it be best used?
3. How effective do members need to be in working together, and working with others, to achieve their objectives?

A focus on adding value, outcomes and prioritisation

1. How should members build an understanding of the impact of their work?
2. What are the most significant priorities affecting the local area, and how should this affect scrutiny's work?
3. How does scrutiny evaluate, review and improve the way it works?

Step 1: taking stock

How do we do things now?

There are two aspects to this. The first is to look in – at scrutiny's current processes and systems. The second is to look out – at the context for the council, the area, and the area's inhabitants.

Looking in

This part focuses on key characteristics of effective scrutiny, and invites you to reflect on how you measure up. This isn't a tickbox exercise – it's an invitation to think about your current ways of working, to make it easier for you to consider improvements at later stages. As such, the characteristics and prompts we have listed below should be seen as the framework for a conversation and a way to make sure you don't miss anything, rather than a list, requiring answers to every issue and question.

This stage is important for two reasons – firstly, it helps you to build up an accurate picture of how scrutiny works at the moment, and secondly it ensures that you have a common understanding of those characteristics, and why they are important.

You might wish to consider these characteristics in some of the following ways – depending on the resource you have at your disposal.

- A quick desktop exercise carried out by members and/or officers;
- A single meeting of scrutiny councillors (say, an evening session to work through the characteristics and the prompts);
- A more wide-ranging, but informal, set of discussions – for example, informal meetings with cabinet members, senior officers, partners and other key stakeholders;
- Conversations with members of the public who have engaged with scrutiny (as well as those who haven't);
- More formal evidence taken at committee meetings.

This should be a challenging and reflective process. It may identify shortcomings with scrutiny; it may lead to despondency that those shortcomings are significant and cannot be overcome. It could also be seen as organisationally risky for scrutiny to take a look at its strengths and weaknesses in this way. However, it is the only way that improvement can happen.

The characteristics themselves

See Good scrutiny? Good question! (WAO, 2014) – <https://www.wao.gov.uk/publication/good-scrutiny-good-question-auditor-general-wales-improvement-study-scrutiny-local>

Accountability works! (2010) – <http://www.cfps.org.uk/accountability-works/>

Characteristic

Overview and scrutiny has a clearly defined and valued role in the council's improvement and governance arrangements.

Overview and scrutiny has the dedicated officer support it needs from officers who are able to undertake independent research effectively, and provide councillors with high-quality analysis, advice and training.

Overview and scrutiny inquiries are non-political, methodologically sound and incorporate a wide range of evidence and perspectives.

Overview and scrutiny provides viable and well evidenced solutions to recognised problems.

Overview and scrutiny councillors have the training and development opportunities they need to undertake their role effectively.

The process receives effective support from the council's corporate management team who ensures that information provided to overview and scrutiny is of high quality and is provided in a timely and consistent manner.

Overview and scrutiny is councillor-led, takes into account the views of the public, partners and other stakeholders, and balances the prioritisation of community concerns against issues of strategic risk and importance.

Overview and scrutiny meetings and activities are well-planned, chaired effectively and make best use of the resources available to it.

Decision-makers give public account for themselves at overview and scrutiny committees for their portfolio responsibilities.

Overview and scrutiny is recognised by the executive and corporate management team as an important council mechanism for community engagement, and facilitates greater citizen involvement in governance.

Overview and scrutiny is characterised by effective communication to raise awareness of, and encourage participation in democratic accountability.

Overview and scrutiny operates non-politically and deals effectively with sensitive political issues, tension and conflict.

Overview and scrutiny builds trust and good relationships with a wide variety of internal and external stakeholders.

Overview and scrutiny enables the "voice" of local people and communities across the area to be heard as part of decision and policy-making processes.

We think that scrutiny can be evaluated against these characteristics by posing a number of questions. Below, we provide a list of possible questions, and an indication of where the answers you give to each question may be evidence of good practice, or a cause for concern.

How are scrutiny councillors involved in influencing major decisions, and in considering and evaluating performance, finance and risk information?

Good practice: *Evidence of decisions being altered consensually as a result of scrutiny's involvement.*

Average practice: *Evidence of scrutiny making recommendations on major decisions, but with limited impact, and sometimes not at the right time.*

Poor practice: *Evidence of scrutiny not looking at these issues at all, or doing so in a way that adds little value / duplicates the work of others.*

Do different people with a role in holding decision-makers to account (like scrutiny, the Police and Crime Panel, a combined authority scrutiny committee, local Healthwatch) work together?

Good practice: *Evidence of tangible impact resulting from this sort of joint working, such as aligned work programmes and an elimination of duplication, and improvements in substantive joint working between the council and its partners, directly facilitated by scrutiny.*

Average practice: *Some limited joint working – usually reactive, in response to an external pressure like a substantive variation in service delivery in the NHS. Some duplication and overlap in work and little awareness of mutual responsibilities. An awareness that some issues are falling between the gaps.*

Poor practice: *No joint working, even when clear opportunities present themselves. “Council scrutiny” is siloed, and internally focused. Significant opportunities for local scrutiny are missed without anyone realising that those opportunities existed in the first place.*

How does scrutiny gather evidence?

Good practice: Evidence gathering is tied to the objectives of the work, with the result that scrutiny's time is used more effectively. Information will probably be shared with members informally on a continual basis, to actively assist them in refining the work programme in-year. In respect of task and finish groups, evidence will be gathered from a wide range of sources, and members will have the confidence to analyse and evaluate that evidence themselves (usually with the assistance of officers).

Average practice: Evidence on key council performance and other issues will usually be shared with members on a quarterly basis, often when the data is quite out of date. Task and finish groups will benefit from evidence from a range of sources but analysis will be quite officer-led. Members will lack confidence in understanding what information is available within and outside the council and how to access and use it.

Poor practice: Committee meetings will be used as the primary mechanism for information sharing, with a large number of reports on agendas "to note", with almost all evidence and information coming in the form of officer reports.

How does scrutiny weigh the evidence that it has collected?

Good practice: Councillors understand the respective value of different kinds of evidence, and use their political and personal judgment to consider which should be relied on to support scrutiny's work. Councillors are confident in developing their own lines of questioning to test the robustness of evidence they receive. Detailed evaluation of evidence is carried out offline, in preparation for the use of that evaluation to conduct more probing and forensic questions in committee, or in other meetings. Successful weighing of evidence could be proven to have led to more robust findings, and better recommendations.

Average practice: Analysis of evidence is carried out by officers, with most evaluation of evidence happening in committee, often supported by officer-drafted questioning plans. Members know that certain evidence is more likely to be accurate and reliable than others, but sometimes this can result in pejorative judgments being made, particularly about "anecdotal" evidence from local people.

Poor practice: There is no support available from officers to help members to weigh and evaluate evidence, and the need to evaluate and triangulate information from different sources is largely alien to members and the scrutiny function. Members deal with shortcomings in evidence and information by simply asking for "more information" from officers.

How is performance, finance and risk information considered as a part of the evidence-gathering process?

Good practice: *Information is considered informally as it is created, alongside other evidence created and used by the council and others. Performance, finance and risks information is triangulated with this wider evidence base. Members are able to reach a judgment about escalating issues to committee “by exception”.*

Average practice: *Information is available to members as it is produced but may not be presented consistently (so, performance information may be regularly shared but risk information may not be). Triangulation may be ad hoc, because the council does not have systems for ensuring that members gain access to information in a timely manner.*

Poor practice: *Committees consider information quarterly in committee meetings, usually many weeks after the data itself has been finalised. Information is presented in the form of scorecards. Members ask questions about why performance under certain targets is “red” but have no way of following up on those questions or the answers received. There is little consideration of financial information and little to no consideration of risk information.*

What is the tangible impact that scrutiny activity has on the ground?

Good practice: *Members and officers have a shared understanding of scrutiny’s impact. This impact is significant and sustained, and can be expressed in terms of outcomes for local people. This understanding includes a recognition that scrutiny’s impact is difficult to quantify and that judgments on impact can be subjective.*

Average practice: *Members and officers have an understanding of scrutiny’s impact which may not be shared or universally agreed. Where impact is assessed it may be focused on improving outputs (eg improving an internal council business process) rather than anything else.*

Poor practice: *There is no evidence that scrutiny has any impact and no systems exist to measure it.*

What happens when decision-makers disagree with scrutiny?

Good practice: *Rules of engagement between scrutiny and the executive have been discussed and agreed by councillors.*

Average practice: *There is a scrutiny / executive protocol in the Constitution, although it is quite process-based. Disagreements, when they occur, are usually resolved through negotiation between politicians, pragmatically.*

Poor practice: *Decision-makers' decisions always trump scrutiny's views. There is no scrutiny / executive protocol in the Constitution or any other formal/informal mechanism for resolving disagreements.*

When scrutiny makes formal recommendations, how are they responded to?

Good practice: *Recommendations are always SMART (specific, measurable, agreed, realistic and timed) and are limited in number. Usually, information about likely recommendations will be shared and discussed with the executive prior to being made. The executive will always submit a substantive response to recommendations, with reasons being given if recommendations are rejected.*

Average practice: *Recommendations are usually at least partially SMART. A lot of recommendations might be made, making it difficult to monitor them all. Some recommendations may not be addressed to the right people. The executive's response to recommendations is variable – sometimes recommendations are ignored or “noted” rather than being formally responded to.*

Poor practice: *Scrutiny makes few formal recommendations, and when it does they are usually just “noted” by the executive. Recommendations will often be vague and poorly drafted.*

What happens when things go wrong?

Good practice: *Safety valves (such as informal meetings for discussion, and lines of communication between political groups) exist within the scrutiny process to eliminate risks before they present themselves. The political and organisational culture of the council is such that potential difficulties, flashpoints and mistakes are highlighted and dealt with frankly and candidly. When problems do present themselves, people work together on all sides to resolve them without recourse to rules and procedures.*

Average practice: *There are regular, somewhat formal, meetings between the executive and scrutiny to allow issues of concern to be raised, but no real mechanisms to pre-empt problems. When problems do occur, the focus can be on what rules and procedures say about the issue, rather than identifying an equitable solution.*

Poor practice: *Problems and shortcomings in scrutiny's impact are either ignored or seen as evidence of scrutiny's ineffectiveness. Blame is a common feature. Problems are seen as an opportunity for political posturing, rather than as an issue requiring collective resolution. The need for executive-side commitment to making things work is poorly understood. Scrutiny is a "process" to be "managed".*

Looking out

Scrutiny has to be relevant. It must do work which has an impact on local people. It has to engage with decision-makers' priorities and the priorities of other partners – the NHS, the combined authority (if there is one), and so on.

Here are some of the key "external" issues which are likely to impact on how scrutiny is carried out, and how governance is likely to need to change in the area. Part of the evaluation process is about considering these changes, and reflecting on what they mean for the future of scrutiny.

- Financial challenges for local government. The nature of funding for local authorities will change significantly between now and 2020. The amount of money available for the transaction of core business will continue to dwindle;
- Demographic changes will result in pressure and demand in some areas – for example, adult social care;
- Both of the above are likely to result in a pressure for local authorities to "transform", as we set out in our 2015 publication "The change game". Transformation might see the creation of some, or all of the following – which raises questions for scrutiny and local accountability:
 - Strategic commissioning arrangements, with councils moving away from traditional contracting-out;
 - The establishment of novel structures for service delivery, like open-book partnerships and Teckal companies;
 - Confederations and council "clustering", which is an ancillary element of some devolution deals;

- Major transformation programmes being carried out by other public agencies – for example, the agreement and implementation of Sustainability and Transformation Plans/Partnerships (STPs) in the NHS – are likely to have a big impact;
- Devolution deals, and the establishment of combined authorities, raise substantial questions about democracy and local scrutiny;
- The potential for local government reorganisation or reviews by the Boundary Commission;
- The development of digital technology means that the public expect a different relationship with elected representatives and those making decisions on their behalf.

What is scrutiny's response to these challenges?

Is scrutiny in a position to make such a response and how does it need to change in order to do so? This should be a difficult question to answer. Tackling it will involve an acceptance from those involved in the scrutiny process and the way they work may need to change, and change significantly, in order for scrutiny to remain relevant. If you sail through this part of the exercise quickly and easily, it may be that those involved have not fully engaged in this challenge, and its implications.

CHECKPOINT: Share products of the “taking stock” exercise with wider membership. Invite members to reflect on its conclusions and decide whether they agree. Have initial discussions between members and officers about scrutiny's role – see below.

Step 2: identifying what scrutiny's role is

At this point you will have the following evidence:

- A sense of scrutiny's current areas of strength and weakness (identified through the “looking in” exercise);
- A sense of where opportunities exist to make improvements, in the context of what's going on in the wider area (identified through the “looking out” exercise);
- A sense of the principles that you will use to underpin those improvements (in the form of your design principles).

This will help you to look at the accountability and governance roles carried out by others in the local area, and decide what scrutiny's own role should be in that context.

Step 2.1 Understand the roles of others

See Practice Guides 9, 11 and 13 - <http://www.cfps.org.uk/?s=practice+guide>

Accountability works! (2010) - <http://www.cfps.org.uk/accountability-works/>

Scrutiny does not happen in a vacuum. Within the local area, there will be individuals, groups, agencies and other organisations who will have some role in holding to account and/or overseeing the kinds of important local issues in which the scrutiny function has a stake.

You need to understand who these people are. You also need to understand what their roles are. The better you understand those roles the better the chance that scrutiny's function can be clearly demarcated, with members and others having the confidence that scrutiny is doing something unique and valuable.

One of the most valuable roles that scrutiny can perform is to look at the internal systems and processes that comprise much council governance (some of the kinds of things that we introduce below) and open them out to public input, insight and scrutiny. The public are likely to have a profoundly different perspective on local services to those held by the council. Scrutiny should consider that perspective when looking at the role of these other organisations.

This exercise will make it easier to identify where the local “gaps” in good governance are. This will then help to define how scrutiny might design its role to fit into that gap.

Some of the people involved are – and their roles in governance – include:

Person	Role
In-house council managers	Holding to account their own staff for the delivery of council services, and other business. This will usually be carried out through usual line management methods, through performance management and budget and risk control.
Executive councillors	Executive councillors / cabinet members holding senior managers to account for their delivery of the council’s political priorities, using similar techniques to those described above.
Clientside council managers	Council officers who manage contracts, or handle the commissioning of services from other organisations, use management information to hold the delivery of those services to account. This is usually done by reference to a contract, and robust systems will usually be in place to assure value for money. Particular areas of concern will be “escalated” to senior managers and elected members.
Partner organisations	<p>While the council holds its partners to account, its partners also hold it to account. For example, the integration of health and social care require that councils work together closely with NHS bodies. Those NHS bodies will have expectations of the contribution that the council will make to such arrangements.</p> <p>Partners may also be commissioned providers, or new bodies (such as Teckal companies) in which the council has a stake, which are responsible for the planning and delivery of local services along with other agencies. The accountability relationships between these bodies are important to understand.</p>
Regulators	In England, Ofsted and the Care Quality Commission are the key external regulators, whose work focuses on the care services provided by councils to children and adults.

The public

The public are the primary source of accountability for elected politicians; they hold politicians, and officers, to account through elections and also through community activism between elections. This activism can take many forms. Sometimes it will be traditional, and manifested through mechanisms such as formally-constituted residents' associations and community groups. On other occasions, it can be more disruptive.

Others involved in local scrutiny and accountability

Organisations such as Local Healthwatch have an important scrutiny role, alongside the Police and Crime Panel, the local fire authority and other bodies.

The scrutiny functions of neighbouring authorities will also need to develop close working relationships.

Increasingly, the creation and development of combined authorities will make those bodies' own overview and scrutiny committees important partners.

Step 2.2 Sketch out a role and focus areas

See The Change Game (2015) - <http://www.cfps.org.uk/the-change-game/>

Cards on the table (2016) - <http://www.cfps.org.uk/cards-on-the-table-devolution/>

Tipping the scales (2012) - <http://www.cfps.org.uk/tipping-the-scales/>

Increasingly, it's becoming clear that traditional, broad-brush scrutiny work – the kind that takes a general view of a topic in the round – is an imperfect way to conduct scrutiny. There are two ways to design work differently:

- Focusing in on a narrow area of policy – for example, a review into social housing could focus on the time taken to carry out regular maintenance and repairs or council communication on the “right to buy” post the passage of the Housing and Planning Act;
- Use a “focus” through which to look at a topic. So, again in relation to social housing, you could look at corporate risks associated with social housing (capacity and demand, for example) or at tenants' expectations about the way that the council should communicate with them.

In “The change game” we introduced this idea of focus as a way of channelling scrutiny's input into large and complex issues. There are a number of possible areas of focus that we mentioned:

- Focus on value. CfPS's publications on social return on investment will help to understand this role more effectively;
- Focus on risk. CfPS has recently publish a paper on risk and resilience, which explains how risk can be used by scrutineers to weigh up complex policy options;
- Focus on residents' experiences. CfPS's paper “Hiding in plain sight” emphasises the importance of engaging with the concerns of local people – focusing on this as the driver of scrutiny work is a powerful way to bring a different perspective to bear on local policymaking;

- Focus on the system, and on organisational development. Councils are going through substantial transformations which will require big cultural changes – scrutiny can lead on understanding these changes, making sure they are informed by wider community need, and championing these moves within the organisation;
- Focus on performance and quality. Adopting a “by exception” report to performance monitoring, with scrutiny playing a defined and well-understood role in intervening when service quality falls and other improvement mechanisms fail.

The selection of a clear and unambiguous focus for scrutiny is a critical part of improving its impact. The resource, and organisational commitment, simply no longer exist for us to talk about scrutiny as a function which “holds the executive to account” in the broadest sense of the term, without a sense of a need to prioritise its work. Discussion and agreement on scrutiny’s role will be difficult, and will cause contention.

CHECKPOINT: Share with members and officers in the council – and with other stakeholders – first thoughts about scrutiny’s future role, and how it differs from what is in place now. Take the opportunity to reflect on how that new role might significantly change expectations about scrutiny in the future, and how scrutiny needs to be supported and resourced. Use this opportunity to further discuss, and subsequently agree, what scrutiny’s overall role will be.

Step 3: ways of working and accessing information

Now comes the time to agree how scrutiny will work – how it will use its agreed role to embed the design principles we mentioned above.

There are a number of different methods for conducting scrutiny work. Below, we set out some of them, explain what they are, and suggest the kinds of issues you might address.

It’s important to remember that you need to review and evaluate these ways of working against the role you have agreed, and against the work you did at the start, when you reviewed the context in which you are working. The lessons you learned from those exercises will help you to understand which of these methods will work best.

These ways of working will need to be informed by the more general approach you take to the way that scrutiny carries out its work, such as:

- Work programming. How will this process work? Who will be involved in it?
- Practically, how will scrutiny seek to engage with the executive, with the council’s partners and with the public?
- Overall, how will scrutiny seek to evaluate and improve its performance on an ongoing basis?

The answers to these questions will relate closely to scrutiny’s agreed role. Once discussed and agreed, it will be easier to think about scrutiny’s practical ways of working inside and outside meetings.

Critically, all activities must be designed in such a way that they maximise the positive outcome from scrutiny’s work. Activity must, in this way, be relentlessly and continually tied to a sense of scrutiny’s value – what it brings to the council and to the wider community.

Possible ways of working

See Practice Guides 1, 2, 3, 4, 7, 8, 12 - <http://www.cfps.org.uk/?s=practice+guide>

Activity

In committee

Description

Limiting the number of substantive items on each agenda to one or two.

Thinking about “themed agendas” where a few connected subjects are discussed.

Briefing officers on scrutiny’s objectives in looking at particular items to ensure that their reports are targeted and focused, rather than generic.

Requiring as a matter of course that cabinet members attend to answer questions on key items, rather than chief officers alone.

Not always permitting officers or cabinet councillors to make presentations before questioning begins, relying on scrutiny members reading their papers and requiring that relevant information be shared in paper form rather than making the assumption that oral presentations will always be necessary.

Planning meetings/evidence-gathering in such a way that the chair is empowered to make substantive recommendations on an item then and there.

In a task and finish group meeting

Recognising where task and finish working is really necessary, and where it is just an extension of committee work by another means.

Ensuring that the scope of reviews translates into each meeting having a clear and defined objective, with meetings taking a project-focused approach.

Thinking about which background papers, and from whom, are prepared and circulated in advance (something on which we expand in the section below on information).

Thinking about the interplay between witnesses, and how witnesses will be managed before, during and after the meeting.

In a meeting designed for public input

Thinking about the circumstances in which such public meetings might be appropriate.

Thinking about how such meetings might be planned, designed and communicated – who is involved and when, and how are the public involved in that process? For example, it might make sense to talk to the council's communications team about the basic principles that underpin public scrutiny meetings and how they can be planned and organised to integrate with the council's wider approach to engagement.

Ensuring that opportunities for public input are significant are meaningful – in the way that the meeting is planned and organised.

Ensuring that the role of councillors in such meetings is clear.

Putting in place measures to keep those who attend (and those who don't, in the wider community) informed about the meeting and its outcomes.

In the community

Planning ways to ensure that information from councillors' ward work is fed into the scrutiny process.

Thinking of innovative and interesting ways that scrutiny can take its work out in the community.

Informally with officers

Regular information sharing meetings between chairs, councillors and senior officers.

Regular informal briefing sessions for larger groups of councillors, replacing "for information" items at committee meetings and organised by the department involved.

Less productive ways of working

There are ways of working, common in scrutiny, which are broadly unproductive. This process provides a useful opportunity to review those approaches and to consider how they might be improved.

Activity	Why it tends not to be productive, and what can be done about it
<p>Meetings with multiple (more than two) substantive items on the agenda</p>	<p>Does not allow enough opportunity for members to dig into and reflect on an issue. Encourages “glossing” of information and an overreliance on officer reports.</p> <hr/> <p>Work programmes can be made sharper. Members can challenge themselves, and each other, to justify the placing of certain items on the committee agenda. The use of selection criteria for agenda items or similar systems to prioritise work.</p>
<p>Items submitted to committee “to note” or to provide an update</p>	<p>Uses up time at committee meetings without a clear sense of an outcome, or scrutiny adding any value.</p> <hr/> <p>Work, whether at committee or in a different forum, should be carried out with a defined outcome in mind – usually, the making of recommendations. Papers circulated to members for information should be provided to them in their postbag, online and/or by means of member briefings organised by service departments.</p>
<p>Provision, at committee, of full scorecards / full technical reports as a separate substantive item</p>	<p>Members can often get bogged down in the minutiae of technical data. This can lead to ineffective scrutiny. Such data will often be out of date by the time members come to see it, and won’t be presented in a way that enables members to add much value to the way it is used and analysed.</p> <hr/> <p>Such data should be used as part of the research base for an approach which sees particular performance issues brought to committee by exception. This would allow specific performance challenges to be highlighted, reflected upon and actioned by members.</p>

Establishment of open-ended “standing panels” or other working groups which do not have the status of formal committees

It is common for scrutiny activity to be delegated to “standing panels” with open terms of reference. This raises resource challenges, and means that such scrutiny work risks not being especially task-oriented.

Better prioritisation of work to ensure that there is always a defined scope with an end point / outcome.

Work that adopts a council-focused perspective of the local community

For example a “review of the council’s youth service” is different from, and inferior to, a “review of the needs of local young people”. Framing issues in a different way will make it easier to break out of council silos and address things from the point of view of local people. This links to the points made above about scrutiny’s overall focus.

Accessing information

See “Your right to know” (2012) - <http://www.cfps.org.uk/your-right-to-know-the-future-for-transparency-in-england/>

“Pulling it together, 3rd edition” (2017) - forthcoming

Once different ways of working have been explored and agreed, members will need to consider the range of information they will require to work properly.

In brief, there are a number of steps through which councillors need to go in order to assure themselves that they are accessing the right information in the right way at the right time, and using it to maximise the effect of their scrutiny work.

- Learning the basics of how to find and use information. This will involve talking to officers about scrutiny’s role, their expectations and what information might be required;
- Understanding how to analyse and reflect on research evidence. Members will need to discuss how much they need to develop these skills themselves, and the extent to which they will need officer assistance;
- Developing scrutiny’s approach to gathering and using evidence so that findings and recommendations are clearly evidence-informed, and that the evidence used tracks back to scrutiny’s overall role.

It is worth remembering that councillors sitting on scrutiny committees have enhanced information access rights under legislation. It is also important to remember that this does not mean that councillors should be looking at everything available, all the time. Part of the benefit of taking a more forensic and targeted approach to evidence is about understanding where to stop. Members need to decide themselves how information will be presented to them and how much they need.

One way that some councils have sought to manage the weight of information that members could look at is to divide the task up. Individual councillors on a committee could be given the responsibility to lead on oversight of a particular element of that committee’s terms of reference. This is particularly useful for councils with only one, or two committees, and where councillors might be worried that they cannot otherwise keep track of a wide range of strategic issues.

CHECKPOINT: This checkpoint involves members agreeing to sign off what has been discussed and agreed – this is the most important part of the work so far.

Some useful principles to bear in mind are:

- These new ways of working should be presented as being temporary in nature, pending final evaluation (see step 5). Making wholesale changes to ways of working – and particularly to structures – can seem risky, particularly when those changes are seen as permanent. By providing a year for new arrangements to “bed in”, space is provided to evaluate the new approach with a view either to changing it, reverting back to previous arrangements or keeping with what you have;
- These ways of working will involve cultural change – changes to the mindset, attitudes and values of both members and officers. Structural change does not need to be discussed at this stage, and is indeed likely to distract from the need to sign off what has been agreed so far;
- As well as member agreement, a wider range of stakeholders also need to be consulted and informed about scrutiny’s new direction, role, focus and ways of working. This checkpoint will therefore require that members think about how this will be communicated to a wider audience.

Step 4: agreeing a new structural model

The final stage in the process is the agreement of a new structural model for the scrutiny function. Essentially, this is the number of committees you will have, what their terms of reference will be, who will sit on them and who will chair.

It is important not to skip ahead to this stage, or to focus too much time and energy on structures. The way that scrutiny is structurally carried out will closely derive from its role. If its role is not clear, not widely understood and not agreed, the greater the chance that disagreements will occur. It is a waste of time and energy to spend meetings arguing about whether there should be three committees, or four, or five, based purely on a sense of a need to “fit” existing work, or more work, into a new structure.

The number of committees and their size

See Practice Guide 6 - <http://www.cfps.org.uk/?s=practice+guide>

There is no optimum number of scrutiny committees. CfPS research shows no real connection between the size and number of scrutiny committees and their effectiveness, although some research we have carried out suggests a loose correlation between more effective scrutiny and fewer committees. On balance, for logistical reasons, we would suggest that a good size for a committee lies somewhere between 7 and 10.

But every council is different, and each scrutiny function is different, with a different role. Little is therefore likely to be learned by looking at the committee structure of neighbouring, or similar, authorities as part of an evaluation of scrutiny.

The most common committee structures are set out below.

- Single committee – a single committee that undertakes all work (without any task and finish groups);
- Single committee with task and finish – a single committee which commissions further work from task and finish groups;

- Two committees –
 - “Internal” and “external” – some councils set up one committee to look at matters for which the council is responsible, and one looking at issues which are the responsibility of partners. This is, in our view, not an effective way to divide up work, because it is increasingly difficult to identify obvious divisions between these different strands of work;
 - “People” and “places”, or similar – dividing issues into those which involve services being delivered directly to individuals (such as social care) and those provided to communities more generally (parks, libraries);
 - “Overview” and “scrutiny” – dividing policy development from performance management and call-in.
- Three or more committees – where terms of reference may be divided in a variety of ways, reflecting the nature of the council. Setting terms of reference to reflect the council’s corporate priorities is a popular approach, but this assumes that the council’s corporate priorities are sufficiently robust.

The terms of reference

Concern is often expressed by members or officers at the prospect of committee terms of reference being too broad. This is often seen as a justification for expanding the number of committees.

This links back to the issue we raised earlier about prioritisation. Effective prioritisation makes it possible to have effective scrutiny with fewer meetings and fewer committees. Ineffective scrutiny can flourish where plenty of time and space is available for more activity to be carried out. The fear may exist that resource-stretched scrutiny will suffer as things will “fall between the cracks”. This risk is most likely to be realised when councillors expect to receive frequent updates on a very wide range of issues, and drown under the weight of paper. Prioritisation – which will derive directly from scrutiny’s agreed role – is the only way to prevent this risk from being a significant one.

The chairing arrangements

See Practice Guide 6 - <http://www.cfps.org.uk/?s=practice+guide>

Skills Briefing 2 - <http://www.cfps.org.uk/?s=skills+briefing>

Full Council will usually vote on the chairship of overview and scrutiny committees. The committee will then formally elect a chair at the beginning of meetings. Usually this means that chairs will be of the same political party as the executive.

Although there is no conclusive evidence to demonstrate that scrutiny is more effective when chaired by members of the opposition, in our view to do so makes it easier for scrutiny to demonstrate its independence from the leadership. It also brings a wider range of differing perspectives to bear on the scrutiny process.

Step 5: ongoing review and evaluation

An important part of evaluating scrutiny is the need to keep that evaluation going. It should be a continuous process – not necessarily in a formal sense, but in the sense of how you think about work as you are doing it.

This toolkit is something which can be returned to, and used to formulate quicker and more targeted evaluation processes. Future evaluations, for example, may involve only step 1 – “taking stock” – with subsequent steps being undertaken only where it is felt that there is a clear business need to do so.

More information

A range of resources exists on the CfPS website which will help practitioners to understand and improve their scrutiny function.

CfPS also provides a helpdesk function to local authorities, funded by the LGA, to assist on matters relating to scrutiny, as well as corporate governance more generally. To access this support please call 020 3866 5100.

CfPS is the leading provider of training and consultancy to local government overview and scrutiny. If you think you need help to review the effectiveness of your scrutiny and governance arrangements or additional training for members or officers please get in touch to discuss further.



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