

## **OVERVIEW AND SCRUTINY PERFORMANCE BOARD 24 JULY 2019**

### **STATUTORY GUIDANCE ON OVERVIEW AND SCRUTINY IN LOCAL AND COMBINED AUTHORITIES**

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#### **Summary**

1. This report summarises the statutory guidance on Overview and Scrutiny from the Ministry of Housing, Communities and Local Government. Local authorities must 'have regard' to the guidance when carrying out their functions attached as Appendix 1.
2. The Guidance follows on from the House of Commons Select Committee report of December 2017 and takes note of written and oral evidence supplied to that Committee<sup>1</sup>.

#### **Background**

3. In December 2017, the House of Commons Select Committee published its report and recommendations relating to the Effectiveness of Local Government Overview and Scrutiny Committees.
4. The Committee found 'that the most significant factor in determining whether or not scrutiny committees are effective is the organisational culture of a particular council. Having a positive culture where it is universally recognised that scrutiny can play a productive part in the decision-making process is vital and such an approach is common in all of the examples of effective scrutiny that we identified.'
5. The Committee recommended that Government Guidance on Overview and Scrutiny arrangements should be updated. This would aim to reflect changes in the sector since the introduction of the requirement to have at least one Overview and Scrutiny Committee where an authority is operating executive arrangements under the Local Government Act 2000.

#### **Contents of the Statutory Guidance**

6. The guidance is broken down into separate chapters dealing with:
  - Culture
  - Resourcing
  - Selecting Committee Members
  - Power to access information
  - Planning work, and
  - Evidence sessions

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<sup>1</sup> <https://www.parliament.uk/business/committees/committees-a-z/commons-select/communities-and-local-government-committee/inquiries/parliament-2017/local-authority-scrutiny-17-19/>

## **Culture**

7. The guidance points out that performance of the scrutiny function is not solely of interest to the authority but is often considered by external bodies such as regulators and inspectors. There are 10 suggestions for how a strong organisational culture can be established, including:

- Identifying a clear role and focus - deciding priorities can help ensure that scrutiny concentrates on delivering work of genuine value and interest to the authority
- Ensuring early and regular engagement between the executive and scrutiny, whilst being mindful of the distinct roles for each
- Managing disagreement – potentially developing an executive-scrutiny protocol to help define the relationship between the two
- Communicating scrutiny's role and purpose to the wider authority, to demonstrate its value and the outcomes it can deliver
- Maintaining the interest of full Council in the work of scrutiny, specifically by reports and recommendations going to Council rather than solely to the Executive
- Ensuring that members have an independent mindset – the guidance suggests that scrutiny chairmen should work proactively to identify any potentially contentious issues and plan how to manage them.

## **Resourcing**

8. The guidance states that when deciding on the level of resource to allocate to the scrutiny function, authorities should consider the following factors:

- Scrutiny's legal powers and responsibilities
- The role and remit scrutiny will play in the authority
- Training requirements of members and support officers, particularly around asking effective questions and making effective recommendations
- The need for ad hoc external support where expertise does not exist in the council
- Effectively resourced scrutiny can help policy formulation and minimise the need for call-in of executive decisions.

9. The guidance suggests that there are a number of ways in which officer support can be provided for scrutiny. Examples given include officers drawn from specific policy or service areas; officers from the corporate centre who also support the executive and officers dedicated to scrutiny. It emphasises that it is up to each authority to decide how scrutiny support is provided.

## **Selecting Committee Members**

10. This part of the Guidance refers to selecting individual committee members and the qualities that should be considered. It also considers selection of the Chair, stating that '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.'

11. The guidance emphasises ensuring induction and ongoing training opportunities for scrutiny members, especially about the legal powers of scrutiny and how to prepare for and ask relevant questions at scrutiny sessions.

### **Power to Access Information**

12. This is an area where the Board has recently sought and obtained advice from the Monitoring Officer. The Chairman has met with the Chief Executive and received assurance about scrutiny's access to the information which it requires from within the organisation.

13. The Guidance suggests that where scrutiny receives accurate and timely information it enables scrutiny members to frame their requests for scrutiny reviews and exercises from a more informed position. It recommends that whilst 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.'

14. The guidance also sets out how scrutiny committees might obtain information from external organisations, especially when an organisation is not legally required to provide it. As well as suggesting collaborative approaches it recommends that where authorities agree contracts with organisations to provide services they should include a requirement to provide information, or to appear before scrutiny committees.

### **Planning Work**

15. The Guidance states that to have defined impact on the ground and make recommendations which have a tangible impact, scrutiny committees need to plan their work programme whilst being flexible enough to accommodate any urgent, short term issues that might crop up during the year.

16. The Guidance acknowledges that deciding priorities for scrutiny is challenging, but states this is necessary to enable appropriate scrutiny to take place. The role of scrutiny should be clear. It suggests different overall roles for scrutiny could include focusing on risk, finances or the way the authority works with partners. Applying the focus should be about looking at topics and deciding whether their relative importance justifies the positive impact scrutiny's further involvement could bring.

17. Various approaches to gathering evidence to support including items on a work programme are suggested, including not using formal consultation but rather having conversations with communities, partners and executive members. Sources of information are also suggested, from performance information about the authority to reports and recommendations from relevant external bodies including relevant ombudsmen.

18. The Guidance advocates using local solutions to shortlisting topics for scrutiny. It suggests a consistent approach helps committees to justify why a decision is taken to include certain issues and not others.

## **Evidence Sessions**

19. This part of the Guidance covers preparation for effective evidence sessions, how to plan and developing recommendations.

20. It suggests that Chairmen 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. Effective planning should enable the themes and findings to be drawn together.

## **Purpose of the Meeting**

21. The Overview and Scrutiny Performance Board is asked to consider the Statutory Guidance, whether there are any areas where the County Council's approach should be reviewed and how it would like to deal with this going forward.

## **Supporting Information**

Appendix 1 - [Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities](#)

## **Specific Contact Points**

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## **Background Papers**

In the opinion of the proper officer (in this case the Head of Legal and Democratic Services) the following are the background papers relating to the subject matter of this report:

County Council Constitution, available on the County Council website [here](#):

[All agendas and minutes are available on the Council's website here.](#)