

Agenda



HYNDBURN

The place to be
an excellent council

Communities and Wellbeing Overview and Scrutiny Committee

Thursday, 11 July 2019 at 10.00 am,
Scaitcliffe House, Ormerod Street, Accrington

Membership

Chair: Councillor Glen Harrison (in the Chair)

Councillors Kate Walsh, Bernadette Parkinson, Judith Addison, June Harrison and
Patrick McGinley

Coopteers: Bernard Dawson and Doug Hayes

AGENDA

1. **Apologies for Absence and Substitutions**
2. **Declarations of Interest and Dispensations**
3. **Minutes of Last Meeting held on 21st March 2019 (Pages 5 - 10)**

To submit the Minutes of the Communities and Wellbeing Overview and Scrutiny
Committee held on 21st March 2019 for approval as a correct record.

Recommended - That the Minutes be approved as a correct record.



Telephone Enquiries: Susan Gardner, Democratic Services (01254) 380184

Email: susan.gardner@hyndburnbc.gov.uk

Published on Thursday, 4 July 2019

Page 1 of 3

4. Appointment of Co-optees *(Pages 11 - 14)*

To inform Members of the Overview and Scrutiny Committee of the Co-optee appointments made by Council on 16th May 2019.

- Recommended**
- (1) That Members note the re-appointment of Honorary Alderman Paul Barton, Honorary Alderman Ian Ormerod and Honorary Freeman Bernard Dawson as Co-optees to the Resources Overview and Scrutiny Committee;**
 - (2) That Members note the re-appointment of Honorary Freeman Bernard Dawson as Co-optee to the Communities and Wellbeing Overview and Scrutiny Committee;**
 - (3) That the Committee notes the previous appointment of Honorary Alderman Doug Hayes as Co-optee to the Communities and Wellbeing Overview and Scrutiny Committee covering the Municipal Year 2019/20;**
 - (4) That the Committee note the amendment to Rule C2 of the Overview and Scrutiny Procedure Rules as set out in the appendix of this report; and**
 - (5) That the Communities note the appointment of Gareth Molineux as new Co-optee to the Resources Overview and Scrutiny Committee.**

5. Scrutiny Work Programme *(Pages 15 - 26)*

To approve the Overview and Scrutiny Work Programmes for 2019/20, to be submitted to the next meeting of Cabinet.

- Recommended**
- That Members approve the 2019/20 Overview and Scrutiny Work Programme for the Communities and Wellbeing Overview and Scrutiny Committee to be submitted the next meeting of Cabinet.**

6. Update on Scrutiny Statutory Guidance *(Pages 27 - 62)*

To update Members of the Overview and Scrutiny Committees on the Scrutiny Statutory Guidance.

- Recommended**
- That the report be noted.**

This page is intentionally left blank

COMMUNITIES AND WELLBEING OVERVIEW AND SCRUTINY COMMITTEE

Thursday, 21st March, 2019

Present: Councillor Glen Harrison (in the Chair),
Councillors Bernadette Parkinson (Vice Chair), Loraine Cox,
Judith Addison, June Harrison and Lisa Allen
Cooptees Bernard Dawson

In Attendance:

Apologies:

367 Apologies for Absence and Substitutions

There were no apologies for absence submitted or substitutions.

368 Declarations of Interest and Dispensations

There were no declarations of interest submitted at the meeting or dispensations.

369 Minutes of Last Meeting 31st October 2018

The Minutes of the Communities and Wellbeing Overview and Scrutiny Committee held on 31st October 2018 were submitted for approval as a correct record.

Resolved - That the Minutes be received and approved as a correct record.

370 Police and Crime Report

Inspector Rides and Sergeant Kennedy gave a presentation on Police and Crime in Hyndburn and reported on performance data.

Inspector Rides reported on changes in neighbourhood policing and informed the Committee that there had been a reduction in Community Beat Managers from fourteen to seven. He reported on the number of Officers linked to an area and that they would be returning to a previous style of policing of patrolling and being visible in communities as they had been 10 years ago and referred to the importance of community intelligence in resolving crime. He informed the Committee that for policing purposes Hyndburn was split into three areas Hyndburn North, South and Central and gave details of reported crime in the following areas: environmental crime, domestic violence, violent crime, serious and organised crime, acquisitive crime. He gave details of statistical data for each area of crime.

Attendees at the meeting asked if:

- Lists of PCSOs for each ward could be distributed to all Members.
- If there were plans to reintroduce Officers to PACT meetings.
- For further information about the burning taking place at a scrap yard in Great Harwood.

Inspector Rides indicated that he would distribute lists of ward PCSOs to all Members and that Officers would be reintroduced to PACT meetings. He also informed the Committee that the Police used many different forms of media to communicate with the public and whilst PACT meetings were useful for reaching some residents he also referred to the importance of social media in reaching residents to communicate with people. Inspector Rides reported that the burning in Great Harwood was being dealt with by a number of agencies.

He gave details of how domestic violence, violent crime, serious and organised crime and acquisitive crime was dealt with by the Police and how they worked with other agencies

Attendees at the meeting asked:

- How domestic violence cases were brought to the attention of the authorities.
- The impact of the new stalking laws
- What restrictions could be placed on an offender?
- If the Police could use stop and search more regularly?
- What actions were being taken by the Police to reduce knife crime?
- What action had been taken against the market seller selling knives?
- A request for knife crime data.
- What actions were being taken to prevent drug problems in areas?
- How problematic was human trafficking in Hyndburn?
- Reference was made to the problem of brothels in Belthorn.
- How was the increase in council tax for the PCC being spent?
- Reference was made to an incidents of scamming in Knuzden and if Police were aware of the issue.
- A request for updates on incidents which have happened in Baxenden including the violent burglary of an elderly lady.
- How CCTV was monitored in Hyndburn?
- How Police Cadets were recruited?

Inspector Rides responded that domestic violence cases were usually reported by someone in that household and the first priority when dealing with incidents was to ensure that relevant interventions were put in place to protect children against the impact of this. He reported that the new stalking laws provided for greater awareness of the issue and that there was a distinction between harassment and stalking. He explained that there were a number of restrictions that could be placed on offenders.

In respect of 'stop and search' he reported that the Police required good reasons to use this which would have to be authorised from senior officers. He reported that there was no evidence of an increase in knife crime in Hyndburn but would provide data on knife crime when it was available. He explained the Market Seller had been spoken to by both the Markets Manager about the sale of knives and by the Police who had explained the law. He reported that they had agreed not to sell some of the more combat type knives.

In respect of drug problems, concerns about human trafficking, scamming and brothels he made a note of the incidents referred to by Members and explained that the Police collected intelligence with regards to incidents of these types in order to take action at a later date. He indicated that the burglary incident in Baxenden was still under investigation. He reported that Hyndburn Borough Council worked and funded CCTV coverage with Blackburn with Darwen Borough Council to provide and monitor CCTV coverage.

He reported that there had been an increase in council tax for PCC to enable greater neighbourhood policing.

He explained to the Committee that they aimed to recruit younger children to the Police Cadets and referred to the importance of providing activities for children and young people in order to keep them off the streets and out of trouble. He explained that Community Protection Orders could be used when necessary.

The Chair of the Committee thanked Inspector Rides and Sergeant Kennedy for attending the Committee.

Resolved - That the presentation be noted.

371 Impact of the Closure of the Walk In Centre at Accrington Victoria Hospital

Alex Walker and Lisa Cunliffe, Community Care Group, gave a presentation on the impact of the closure of the Walk-In Centre, Accrington Victoria Hospital.

Lisa Cunliffe, Primary Care Development Manager reported on the transition from the Walk-In Centre to a GP Extended Service and Care Navigation after the closure of the Walk-In Centre.

She referred to the background to the decision to close the Walk-In Centre and the amount of work carried out by the CCG in 2015/16 in engaging with the local population to ask for their views. She reported that groups across East Lancashire had supported the closure and that services throughout East Lancashire had not been consistent. She referred to ways in which people had wanted to improve services including the ability to pre-book appointments, the continuity of care, access to medical records away from the GP surgery and access to better information and services. She outlined the principle of the new model of health care provision and reported that running alongside the new model were the national requirements of GP extended access. She also referred to analysis of the impact on other local health services once the Walk In Centre had been closed. Alex Walker provided details of this and pointed out that their predictions had been relatively accurate with provision in place to meet demand.

Lisa Cunliffe referred to Care Navigation and the provision that had been put in place to provide this service.

Members asked for the following information:

- How people would be able to attend appointments away from their normal GP surgeries, especially as there was a lack of bus service.
- How many GP Practices in Hyndburn offer Out-of-Hour services?
- If frontline healthcare staff had been adequately trained to provide the services being offered?
- Had there been an increase in the number of GPs appointed to deal with the additional services?
- Did the new system provide adequate accessibility to health care services?
- Had the impact been measured on the Royal Blackburn Hospital Urgent Care service?
- How was the former Walk-in Centre being used now?
- Had job roles changed since the introduction of the new health care model?
- Concern about accepting appointment from doctors outside the current area.
- Concerns about some items on repeat prescription not being available.
- A request for the personnel breakdown of the CCG membership.

- Had the staff from the Walk-In Centre been redeployed?
- Booking out of hours appointments was still difficult to do and some patients had never been offered the opportunity to do this. There was also no access to medical records.
- Concern that the figures provided with regards to the success of the new healthcare model did not accurately reflect the actual service provided and that the provision of services was limited.
- An increase in housing provision in the borough would have an impact on the amount of healthcare required.
- An increase in digital services could mean that some patients may feel that services could be out of their reach.
- There was a variance in access to prescription items by different pharmacies across the borough.

Members were provided with responses to the above queries as follows:

Members were informed that patients would not have to accept appointments anywhere they were not able to attend and that most would be allocated within their own area. Lisa Cunliffe reported that all GP Practices should supply out of hour services and that the provision of this would be monitored. She reported that all frontline staff had attended rigorous training and would be able to provide the services offered. She also reported that there was a large pool of GPs who worked on a rota system and that this allowed them to cope with the demands of the new system. In respect of accessibility to a GP she reported that the NHS was under immense strain and that work was taking place behind the scenes to ensure that adequate provision was available. In respect of some Pharmacies having difficulty in providing prescription items she reported that she would speak to the relevant authority in respect of this. She informed the Committee that hospital had access to a summary of a patient's medical records and not the full record so would need to verify the patient's needs before treating them.

Alex Walker reported that additional services were planned to ensure adequate healthcare provision for the proposed additional housing provision in the borough. He reported that some prescription items were cheaper to buy over the counter rather than get them on prescription.

Resolved

- (1) That the CCG works with GP Surgeries to help raise awareness amongst patients of the availability of appointments through the Extended Hours Service;**
- (2) That the CCG investigates the potential variances in accessing prescription items through pharmacies; and**
- (3) That the CCG be requested to provide Councillors with information relating to the medicines no longer available on prescription.**

Signed:.....

Date:

Chair of the meeting
At which the minutes were confirmed

This page is intentionally left blank

Agenda Item 4.

| | | | |
|--|---|------------------------------|--|
| REPORT TO: | Communities and Wellbeing Overview and Scrutiny Committee | | |
| DATE: | 11 July 2019 | | |
| REPORT AUTHOR: | Overview and Scrutiny Officer | | |
| TITLE OF REPORT: | Appointment of Co-optees | | |
| EXEMPT REPORT (Local Government Act 1972, Schedule 12A) | No | Not applicable | |
| KEY DECISION: | No | If yes, date of publication: | |

1. **Purpose of Report**

- 1.1 To inform Members of the Overview and Scrutiny Committees of the Co-optee appointments made by Council on 16th May 2019.

2. **Recommendations**

- 2.1 That the Committees note the following re-appointments of Co-optees to the Resources Overview and Scrutiny Committee:
- Honorary Alderman Paul Barton
 - Honorary Alderman Ian Ormerod
 - Honorary Freeman Bernard Dawson
- 2.2 That the Committees note the following re-appointment of Co-optees to the Communities and Wellbeing Overview and Scrutiny Committee:
- Honorary Freeman Bernard Dawson
- 2.3 That the Committees notes the previous appointment of Honorary Alderman Doug Hayes as Co-optee to the Communities and Wellbeing Overview and Scrutiny Committee, which covers the 2019/20 Municipal year.
- 2.3 That the Committees note the amendment to Rule C2 of the Overview and Scrutiny Procedure Rules as set out in the appendix to this report.
- 2.4 That the Committees note the appointment of Gareth Molineux as new Co-optee to the Resources Overview and Scrutiny Committee.

3. Reasons for Recommendations and Background

3.1 At Council on 16th May 2019, an amendment to the Constitution was agreed to increase the number of co-optees on each Committee from three to four. This will help to boost participation in the work of the Committees. It was also agreed that members be given the ability to nominate individuals to fill co-optee vacancies and that such nominations are presented directly to Council to speed up the appointment process. This more closely reflects the reality of the current position as very few, if any, applications are received directly from the public.

3.2 Therefore, the Co-optees outlined in section two of the report were approved by Council.

4. Alternative Options considered and Reasons for Rejection

4.1 Not applicable

5. Consultations

5.1 None

6. Implications

| | |
|---|----------------|
| Financial implications (including any future financial commitments for the Council) | None |
| Legal and human rights implications | None |
| Assessment of risk | None |
| Equality and diversity implications <i>A Customer First Analysis should be completed in relation to policy decisions and should be attached as an appendix to the report.</i> | Not Applicable |

7. Local Government (Access to Information) Act 1985: List of Background Papers

7.1 *Agenda, reports and minutes of Council on 16th May 2019*
<https://democracy.hyndburnbc.gov.uk/ieListDocuments.aspx?CId=130&MId=2301&Ver=4>

Appendix

Overview and Scrutiny Procedure Rule C2 - Up to four members of the public may be appointed to each Overview and Scrutiny Committee as non-voting co-optees, if they are deemed to have relevant experience of matters falling within the remit of that Overview and Scrutiny Committee. The intention is that such co-optees will be non-political.

- (i) Co-optees may be appointed following nomination by a councillor or following an application received directly from a member of the public.
- (ii) Applications received directly from the public will be considered first at the relevant Overview and Scrutiny Committee. The Committee will consider the knowledge and experience of the applicant relevant to the terms of reference or work programme of the Committee. If the majority of the Overview and Scrutiny members support the appointment of the applicant, the proposed appointment will be presented to Council for approval.
- (iii) Nominations received from councillors will be presented to the Council for approval, if supported by the Chair of the relevant Overview and Scrutiny Committee. In reaching a decision, the Council will consider the knowledge and experience of the nominee relevant to the terms of reference or work programme of the Committee.”

This page is intentionally left blank

Agenda Item 5.

| | | | |
|--|---|------------------------------|--|
| REPORT TO: | Communities and Wellbeing Overview and Scrutiny Committee | | |
| DATE: | 11 th July 2019 | | |
| REPORT AUTHOR: | Overview and Scrutiny Officer | | |
| TITLE OF REPORT: | Overview and Scrutiny Work Programmes | | |
| EXEMPT REPORT (Local Government Act 1972, Schedule 12A) | No | Not applicable | |
| KEY DECISION: | No | If yes, date of publication: | |

1. **Purpose of Report**

- 1.1 To approve the Overview and Scrutiny Work Programmes for 2019/20, to be submitted to the next meeting of Cabinet.

2. **Recommendations**

- 2.1 That the Committees approve their 2019/20 Overview and Scrutiny Work Programmes for submission to the next meeting of Cabinet.

3. **Reasons for Recommendations and Background**

- 3.1 At the beginning of each municipal year, the Council's Overview and Scrutiny Committees each agree a work programme for the year.

- 3.2 The process for agreeing the work programme is set out in Overview and Scrutiny procedure rule C6(a) as follows;

“A draft work programme will be submitted for comment to the first appropriate meeting of the Cabinet at the beginning of each new Municipal Year and the draft work programme for each overview and scrutiny committee will then be submitted to the next following meeting of that committee (together with any comments or recommendations from the Cabinet) for approval”.

- 3.3 A draft work programme for each of the Committees is submitted for comment. This will be sent in draft to Cabinet, then to both Scrutiny Committees along with any comments from Cabinet. The Scrutiny Committees will then approve a full programme which will be submitted to the next meeting of Cabinet. Due to the timings of meetings this year (Cabinet being the week following this meeting), it is proposed that the

Overview and Scrutiny Officer will circulate any comments from Cabinet to Committee members, with a final programme being approved at the next meeting.

3.4 The work programmes have been developed following consultation including:

- Multiple emails to all Councillors
- Suggestions sought from all service managers
- Informal meeting with the Cabinet

3.5 Thirteen items were suggested by Councillors (including one item which was suggested separately by multiple Councillors). Seven of these items have been added to the work programme. Of the remaining six, one has been marked as a possibility pending further information while the others have been rejected. No items were submitted by Service Managers.

3.6 A summary of items submitted by Councillors and reasons why they have been included / not included are in the table below.

| Scrutiny Topic | Reason for Suggestion | Accepted/Rejected (If rejected include reason why) | Notes | Suggested Committee to review (If approved) |
|---|--|---|--|--|
| Fly Tipping/Littering | Wants focus on Council action when on private land | Yes | Review last year with waste services – agreed to focus on enforcement angle. | Resources |
| Graffiti | As above | Yes | As above | Resources |
| DFGs | Looking how the DFGs are given out ,see if there's a more fairer way also how much did we spend last year | No | Reviewed last year. Recommendation to establish a cross party cabinet working group which was accepted. | NA |
| Council support for VCFS organisations | How do the Council support VCFS organisations | No | This item was rejected last year. | NA |
| GPs lack of funding, recruiting new GPs, reduced working arrangements | No reason given | No- Cllr Glen Harrison to raise at LCC Health Scrutiny | Agreed that district level Scrutiny could have little value here. Requested that instead Cllr Glen Harrison raise this issue at LCC Health Scrutiny. | Communities |
| Town Centre Events | Review of events planned and money spent | Yes | Rejected last year, at which time it was suggested to add to this years programme. | Either |
| Homelessness referral scheme | No reason given | No | Homelessness was reviewed last year | NA |
| Kingdom | Worthwhile exercise to have the kingdom contract and the benefits (if any) brought to committee. Just before the contract is up for renewal. | Yes | Already recommended that this be reviewed (By the Committee last year) | Resources |
| New Waste collection system | Analyse how the council has coped with the | Yes | Agreed to combine with Kingdom item if Scrutiny did want to look at this. | Resources |

| | | | | |
|---|--|--------------------------------------|--|-------------|
| | <p>rollout of the new waste collection system.</p> <p>In terms of customer satisfaction, cleanliness of our streets and also the financial benefits</p> | | | |
| Hyndburn's Recovery Process for Council Tax Arrears | <p>Council Tax arrears was the highest debt category with, in some cases, bailiffs being instructed very early in the collection process, when there are other options, such as attachment of benefits. This latter issue is more pronounced in Hyndburn than Rossendale</p> | Yes | | Communities |
| Universal Credit | <p>What impact has universal credit had on the residents of Hyndburn. In particular is it contributing to the 40% of children in Hyndburn living in poverty?</p> | Yes | <p>This item was on the agenda last year. Deferred several times.</p> | Communities |
| Taxi Licensing | <p>Public safety and the protection of our drivers and usage of low emission taxis due to environmental impact.</p> <p>Hyndburn Council has always taken public safety very seriously. This has also covered</p> | No – green panel will look at policy | <p>Last reviewed approx. 2014. Suggestion that green panel considers environmental issues relating to taxis.</p> | Resources |

| | | | | |
|--|--|--|--|--|
| | <p>the environmental impact of the vehicles it licenses.</p> <p>Therefore could I make a recommendation that we discuss how the current policy could be strengthened in this regard.</p> | | | |
| <p>Management of green space associated with new housing development</p> | <p>I think looking at this issue creatively this has to be a priority. My experience in Rishton on this hasn't be great with a recent housing development introducing private management companies taking a large proportion of service charges for simply mowing modest strips of grass and the almost the entire budget going on back room office and admin costs. The current consultation on the local plan is proposing this as the only mechanism going forward. Personally I think this is a national scandal and I think HBC could do better. There's an opportunity with new house building in terms of more creative approaches to the</p> | <p>Possibility – Scrutiny Officer to discuss with Chief Planning Officer</p> | <p>Scrutiny Officer to discuss with Chief Planning Officer</p> | |

| | | | | |
|--|---|--|--|--|
| | <p>greenspace that is created, particularly with a focus on increasing bio-diversity within maintenance-light planting schemes. I also think we need to look at alternative options on management including working with key partners like Hyndburn Prospects and this could have the effect of supporting their sustainability. I don't think any of this will be remotely easy but i do think it's an area we need to focus on cos of the environmental opportunity and the need to get a better deal for local people buying houses in the borough</p> | | | |
|--|---|--|--|--|

3.6 Meetings with the chairs and vice chairs also took place, and items for the work programme were discussed and selected in accordance with the Criteria for Selecting Work Programme Items (Appendix 2).

3.7 In addition, Cabinet members were invited to a work programme meeting with the chairs and vice chairs of both committees to put forward potential items.

3.8 We have sought to provisionally allocate items to specific meetings. These may be subject to change during the year, particularly where they involve the attendance of external and partner organisations.

3.9 As in previous years, additional items can be added to the work programmes as the year progresses.

3.10 The Committee is asked to approve their work programme, pending comments from Cabinet.

4. Alternative Options considered and Reasons for Rejection

4.1 **Not applicable to this report**

5. Consultations

5.1 All Councillors and Service Heads were given the opportunity to contribute to the Overview and Scrutiny Work Programme

6. **Implications**

| | |
|---|-------------------------------|
| Financial implications (including any future financial commitments for the Council) | None arising from this report |
| Legal and human rights implications | Not applicable |
| Assessment of risk | Not applicable |
| Equality and diversity implications <i>A Customer First Analysis should be completed in relation to policy decisions and should be attached as an appendix to the report.</i> | Not applicable |

7. **Local Government (Access to Information) Act 1985:**
List of Background Papers

7.1 *None*

Overview and Scrutiny Work Programmes 2019/20

| Draft Resources Work Programme 2019/20 | |
|---|---|
| Meeting Date (All 3pm unless otherwise stated) | Work Topics |
| 16 th July | <ul style="list-style-type: none"> - Confirmation of Work Programme - Appointment of Cooptees - Statutory Guidance on Overview and Scrutiny in Local Government |
| 3 rd Sept | <ul style="list-style-type: none"> - Enforcement of Fly Tipping and Littering on Private Land - Green Review Update |
| 31 st October | <ul style="list-style-type: none"> - Review of Littering Enforcement Contract - Report on the New Recycling Scheme |
| 19th December | <ul style="list-style-type: none"> - Green Review – Update from Scrutiny Panel - People Strategy |
| 18 th February | Budget |
| 19 th March | <ul style="list-style-type: none"> - Hyndburn Leisure Financial Update - Performance Review |

| Draft Communities and Wellbeing Work Programme 2019/20 | |
|--|---|
| Meeting date (All 10am unless otherwise stated) | Work Topics |
| 11 th July | <ul style="list-style-type: none"> - Confirmation of Work Programme - Appointment of Coopteers - Statutory Guidance on Overview and Scrutiny in Local Government - Impact of Universal Credit (DWP) - agreed to defer |
| 4 th September | <ul style="list-style-type: none"> - Recovery Process for Council Tax Arrears - Impact of Universal Credit (DWP) |
| 30 th October | <ul style="list-style-type: none"> - Review of Town Centre Events |
| 18 th December | Available for in year items |
| 18 th March | <ul style="list-style-type: none"> - Crime and Disorder - Update on the merger of Accrington and Rossendale College |

Appendix 2

Criteria for selecting work programme items:

1. Is this topic a key priority for the Council? (e.g. as identified in the Sustainable Community Strategy and Corporate Strategy)
2. Is this topic important to the public? (e.g. are Members aware of public concern, has the issue been raised at Area Councils, has it been raised via public consultation?)
3. Is there evidence of poor performance or value for money concerns which Overview & Scrutiny should investigate? (e.g. from performance information, external and internal audit reports etc)
4. Does the Council spend a significant proportion of its budget on this issue?
5. Is this issue important to Members?
6. Is anyone else already looking at this issue? (i.e. is it really necessary for Overview & Scrutiny to spend time on this?)
7. Is this the right time to look at this issue? (e.g. is it about to change anyway?)
8. Will the time spent on this item be worthwhile? (e.g. can Overview & Scrutiny really make a contribution to this issue?)
9. Is there scope to involve the public, voluntary groups or other organisations in this topic?

This page is intentionally left blank

Agenda Item 6.

| | | | |
|--|---|------------------------------|--|
| REPORT TO: | Resources Overview and Scrutiny Committee; Communities and Wellbeing Overview and Scrutiny Committee | | |
| DATE: | 11 July 2019 | | |
| REPORT AUTHOR: | Overview and Scrutiny Officer | | |
| TITLE OF REPORT: | Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities | | |
| EXEMPT REPORT (Local Government Act 1972, Schedule 12A) | No | Not applicable | |
| KEY DECISION: | No | If yes, date of publication: | |

1. Purpose of Report

- 1.1 To inform Members of the publication of New Statutory Guidance on overview and scrutiny in local government.

2. Recommendations

- 2.1 That the report is noted.

3. Reasons for Recommendations and Background

- 3.1 The statutory guidance on overview and scrutiny in local government has now been published by MHCLG. This guidance has been produced following a commitment that Government made in early 2018, following on from the Communities and Local Government Select Committee's inquiry into O&S.
- 3.2 A summary of the guidance can be seen below.
- 3.3 A cultural commitment to scrutiny is about taking action to encourage scrutiny that is challenging, uncomfortable and potentially politically difficult. Scrutiny's part in this bargain is to recognise that its work must be designed to have impact.
- 3.4 The guidance has a fair amount to say on the technical aspects of scrutiny – but it does affect a lightness of touch. At various points it takes pains to note that it does not wish to prescribe – just to offer ideas and a framework within which local scrutiny functions will need to find their own solutions. But inevitably there will be things here which should cause councils to reflect on their own performance. In particular:

- 3.4
 - ☑ Role and prioritisation – scrutiny’s role has to be focused, and the scrutiny work programme needs to be carefully prioritised.
 - ☑ Selecting committee members – the right people have to be selected to be on committees, and to hold the position of chair. The guidance gives a sense of the personal attributes that people in these positions will require. It recognises the political element of chair selection.
 - ☑ Access to information – this emphasises the rights that members have to access information and states that councillors should have regular access to key sources of information which, collectively, will give them a sense of the management of the authority, with a particular focus on performance, finance and risk;
 - ☑ Gathering evidence and making recommendations – the role of the chair in managing the gathering of evidence is seen as especially important – as it the work of members in pulling together focused and achievable recommendations.
 - ☑ Resourcing – it perhaps goes without saying, but the resource must be available to ensure that the above things can happen properly. For many councils, facing severe financial challenge, we recognise that these kinds of statement coming from Government may provoke exasperation. The Centre For Public Scrutiny are planning to do more in the coming months to help councils to understand how they prioritise their work to make the best use of available resources.

3.5 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. Therefore Councillors are encouraged to read through the guidance in full, which is included in Appendix 1.

3.6 Members are also encouraged to read through the updated Good Scrutiny Guide which is available here <https://www.cfps.org.uk/wp-content/uploads/CfPS-Good-Scrutiny-Guide-v3-WEB-SINGLE-PAGES.pdf>

4. Alternative Options considered and Reasons for Rejection

4.1 Not applicable

5. Consultations

5.1 None

6. Implications

| | |
|--|------|
| Financial implications (including any future financial commitments for the Council) | None |
|--|------|

| | |
|---|----------------|
| | |
| Legal and human rights implications | None |
| Assessment of risk | None |
| Equality and diversity implications <i>A Customer First Analysis should be completed in relation to policy decisions and should be attached as an appendix to the report.</i> | Not Applicable |

7. **Local Government (Access to Information) Act 1985:**
List of Background Papers

7.1 *None*

Appendix

This page is intentionally left blank



Ministry of Housing,
Communities &
Local Government

Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities



© Crown copyright, 2019

Copyright in the typographical arrangement rests with the Crown.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/>

This document/publication is also available on our website at www.gov.uk/mhclg

If you have any enquiries regarding this document/publication, complete the form at <http://forms.communities.gov.uk/> or write to us at:

Ministry of Housing, Communities and Local Government
Fry Building
2 Marsham Street
London
SW1P 4DF
Telephone: 030 3444 0000

For all our latest news and updates follow us on Twitter: <https://twitter.com/mhclg>

May 2019

ISBN: 978-1-4098-5458-6

Contents

| | |
|---|-----------|
| Ministerial Foreword | 4 |
| About this Guidance | 5 |
| 1. Introduction and Context | 7 |
| 2. Culture | 8 |
| 3. Resourcing | 13 |
| 4. Selecting Committee Members | 15 |
| 5. Power to Access Information | 18 |
| 6. Planning Work | 21 |
| 7. Evidence Sessions | 25 |
| Annex 1: Illustrative Scenario – Creating an Executive-Scrutiny Protocol | 27 |
| Annex 2: Illustrative Scenario – Engaging Independent Technical Advisers | 28 |
| Annex 3: Illustrative Scenario – Approaching an External Organisation to Appear before a Committee | 30 |

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.

This page is intentionally left blank