



A councillor's workbook on scrutiny



Contents

| | | | |
|-------------------------------------|----|--|----|
| Foreword | 3 | Working with others | 21 |
| Scrutiny in local government | 4 | The council executive and officers | 21 |
| Introduction | 4 | Statutory officers | 22 |
| Powers of scrutiny | 4 | The scrutiny officer | 22 |
| Effective scrutiny | 5 | The monitoring officer | 23 |
| Adding value | 5 | Scrutiny and partner organisations | 23 |
| Being cost-effective | 8 | Other scrutineers | 24 |
| Public scrutiny | 8 | Useful skills | 25 |
| Work programming | 10 | Questioning techniques | 25 |
| How scrutiny works | 11 | Listening skills | 27 |
| The overview and scrutiny committee | 11 | Chairing scrutiny | 27 |
| Scrutiny meetings | 12 | Final summary | 28 |
| Task and finish groups | 14 | Appendix | |
| Co-optees | 14 | Sources of further information and support | 29 |
| Combined authorities | 14 | | |
| Joint committees | 15 | | |
| The scrutiny review process | 15 | | |
| Pre-decision scrutiny | 16 | | |
| Post-decision scrutiny and call-in | 18 | | |
| Gathering evidence | 19 | | |
| Sources of information | 19 | | |
| Using evidence effectively | 20 | | |
| Making a recommendation | 21 | | |
| Monitoring recommendations | 21 | | |

This councillor workbook includes references to materials published by the Local Government Association (LGA) and the Centre for Public Scrutiny (CfPS). Further information can be found at www.lga.gov.uk and www.cfps.org.uk.

All documents published by the CfPS and referenced in this workbook can be found in full on the CfPS website www.cfps.org.uk.

Foreword

This workbook has been designed as a learning aid for elected councillors. It makes no judgement about whether you have been a councillor for some time, or whether you have been elected more recently. If you fall into the former category the workbook should serve as a useful reminder of some of the key skills, approaches and tactics that make for an effective ward councillor – it may even challenge you to reconsider how you have approached aspects of the role to date.

Those councillors who are new to local government will recognise that they have much to learn. The workbook will help you to get up to speed with key aspects of the ward councillor role that require focus and attention. In effect, it should provide you with some pointers on how to develop a style and approach that you are comfortable with, and that enables you to be most effective in your day to day duties.

The workbook can be used as a standalone learning aid or as an adjunct to other material you may cover. It offers few firm rules for councillors as it is recognised that each individual must decide how best to use and develop their influencing skills, based on individual preference and confidence. As such, the workbook should serve more as a direction marker rather than a road map.

In practical terms, the document will take between two to three hours to work through. You do not need to complete it all in one session and may prefer to work through the material at your own pace. The key requirement is to think about your own approach in influencing other people – how the material relates to your local situation, the people you serve and the council you represent.

In working through the material contained in this workbook you will encounter a number of features designed to help you think about the ward councillor role. These features are represented by the symbols shown below:



Guidance – this is used to indicate research, quotations, explanations and definitions that you may find helpful.



Challenges – these are questions or queries raised in the text which ask you to reflect on your role or approach – in essence, they are designed to be thought-provokers.



Case studies – these are ‘pen pictures’ of approaches used by other people or organisations.



Hints and tips – these represent a selection of good practices which you may find useful.



Useful links – these are signposts to sources of further information and support, outside the workbook, which may help with principles, processes, methods and approaches

Scrutiny in local government

Introduction

The Local Government Act 2000 introduced a new political management system for local councils in England and Wales, requiring them to have a separate 'executive' in the form of a leader, or elected mayor, and cabinet.

To provide a counterweight for this, the Act also introduced the concept of 'overview and scrutiny', whereby every council with an executive management structure is required to have an overview and scrutiny committee. This enables the rest of the council to scrutinise the executive by investigating their decisions and policies, and issuing reports and recommendations where any shortcomings are identified.

The Localism Act 2011 gave councils the option of converting to a committee system form of governance. Councils that have chosen this option are not required to have a separate overview and scrutiny committee, although they may choose to do so. It is still expected that scrutiny will take place within committees to identify where improvements need to be made.

Whichever governance system a council operates, scrutiny is an essential part of ensuring that local government remains transparent, accountable and open, resulting in improved public policies and services.

As a councillor, you have been elected by your local community because they believe you will represent them in ensuring the council provides the services they need, to the standard they expect. By understanding their needs you can bring a different perspective to the decision-making process to that provided by the council executive or officers, which helps decisions to be more robust.

Whether or not you are directly involved in the scrutiny function, it is important that you understand how scrutiny works and the benefits that it can bring. This workbook will:

- explain what scrutiny is and how it works in practice
- describe the scrutiny review process
- look at who is involved in scrutiny
- give an overview of useful skills for carrying out scrutiny.

Powers of scrutiny

The principal power of a scrutiny committee is to influence the policies and decisions made by the council and other organisations involved in delivering public services. The scrutiny committee gathers evidence on issues affecting local people and makes recommendations based on its findings.

Scrutiny can investigate any issue which affects the local area or the area's inhabitants. However, effective scrutiny work relies on scrutiny's 'soft' influencing power, as it has no formal power to compel anyone to make changes. For this reason, before undertaking any scrutiny work it is important to think about not only scrutiny's legal powers but also about how to build a positive working relationship with those who are the subject of scrutiny's recommendations. This ensures a much higher chance of scrutiny's recommendations being implemented.

Generally, a scrutiny committee has the legal power to:

- require that the council makes information available to it, both in the form of written reports and by officer and cabinet member attendance at committee meetings
- require that the cabinet responds to its recommendations within a set time frame.

Scrutiny also has powers relating to certain external partners. More information can be found on the CfPS website (www.cfps.org.uk/practice-guides).

Effective scrutiny

For scrutiny to be effective it needs to be seen as a 'critical friend' and it is important to identify where decisions could be improved and how to prevent mistakes being made or repeated. However, the focus should be on forward thinking and making positive changes, rather than apportioning blame and focusing on the negatives. This will help to foster positive and constructive relationships between scrutiny, councillors and officers.

Successful scrutiny relies on the following conditions:

Effective work programming

Work programming is the planning stage of scrutiny, where subjects for further investigation are identified. It is most effective when there are clear criteria for the selection of subjects and agenda items. This is covered in more detail later in the workbook.

Positive attitude of the council executive and council officers

Scrutiny works well when the council's executive views it in a positive light and as an opportunity to improve council performance. Scrutiny's effectiveness will be reduced if the executive sees it as aggressively critical, which will lead to defensive behaviour and make it difficult for scrutiny to influence change.

Similarly, scrutiny will be more effective if council officers are willing to provide information and assistance when required. Ideally, officers should see scrutiny as an essential partner in improving services, where non-executive councillors can help them to better understand local people and make robust judgements about priorities.

Positive attitude of scrutiny councillors

Scrutiny councillors need to be committed to making the function work and to developing the conditions necessary for working effectively with the council's executive and officers, and any other relevant partner organisations.

It is also important that scrutiny is seen as impartial and stays separate from party politics. However, scrutiny work includes looking at issues that are locally politically contentious and high profile, and as such an element of political disagreement is inevitable. The challenge for you, as a scrutiny councillor is to use your political skills and understanding of the needs of local people to shape the discussions, whilst not acting in a party political manner or using the discussions to further party political objectives

More information can be found in 'Overview and scrutiny in local government: a handbook for elected members' (CfPS, 2013), accessible from: www.cfps.org.uk



Guidance What is good scrutiny?

Fundamentally, all scrutiny work must add value: it must make a positive contribution to the lives of local people and scrutiny committee members must be very clear about how their work will do this. When scrutiny is carried out properly it is constructive and focuses on the priorities of local people, which feeds into the priorities of the council and its partners. Good scrutiny:

- tackles issues of direct relevance to local people
- tackles issues where, through the unique perspective of elected councillors, it can add the most value
- is about talking to a wide range of people, drawing them together and building consensus
- is about challenging the accepted ways of doing things and acting as a champion for developing a culture of improvement in the local area.

Adding value

The purpose of scrutiny is ultimately to improve the lives of local people through improved public services. To justify the resources allocated to scrutiny it is important to be able to demonstrate that scrutiny work adds value and makes a difference to local people.

A scrutiny review is successful if it fulfils one or more of the following conditions:

- it meets the objectives set out by the scrutiny committee
- feedback from the public shows that they think there has been the service improvement they desired
- the work has helped to achieve corporate or partnership priorities
- there is a return on investment, demonstrating scrutiny's impact and outcomes in financial terms.

The impact scrutiny has can be measured in two ways:

Outputs – quantitative expressions of the activities being reviewed, for example 'waste bin collections have increased to 10,000 every week'. These can be expressed in financial terms to show return on investment.

Outcomes – what stakeholders experience as a result of the review, for example if the local community recognises an improvement. The council and its partners could also be stakeholders, for example where scrutiny recommendations relate to internal processes.

The CfPS publication 'Tipping the Scales' details a model for measuring return on investment for overview and scrutiny.



Case study Adur, Arun and Worthing – measuring the return on investment

A scrutiny review was undertaken to consider the ROI of improving the health and wellbeing of homeless people, after evidence showed that Arun District has the fourth highest number of people in the UK who sleep rough on its streets.

Return on investment

The review explored whether the demand on A&E and hospital admissions for homeless people was linked to whether or not they were registered with a GP. The following conclusions were reached:

- on average, homeless people who were not registered with a GP were eight times more likely to visit A&E
- this meant the burden on A&E services could be reduced if homeless people were registered with a GP
- it cost less when a homeless person registered and visited a GP than when they attended A&E.

Further work then identified the cost of undertaking the review, which made it possible to calculate how many homeless people needed to be registered with a GP for there to be an overall net saving.

Return on investment calculation

Review costs: 334 review hours x average wage £11.60/hr = £3874

Estimated cost per visit to A&E = £131

Cost of registration and visit to GP = £79

Potential saving if registered with GP = £52 (£131-£79)

Return on Investment = £52 x 8 visits = £416

Number of homeless people needed to register to balance review = 10 (£416 x 10 = £4160)

You can find more Scrutiny Return on Investment (SROI) examples in the CfPS publication 'Tipping the Scales', which is available at: www.cfps.org.uk

Being cost-effective

Scrutiny committees need to work effectively with limited resources. They can do this by:

Carrying out work more efficiently – for example, holding single-topic committee meetings, so a group of councillors can speak to a large number of witnesses in a round-table format.

Targeted work programming – having processes in place to decide what will and what will not be reviewed and investigated.

Providing officer support more efficiently – for example, by thinking more carefully about what support scrutiny committee members want and need from officers and what skill set officers have and require.

Resource availability – work programming should be influenced by what resources are available.

Circulating information – providing or making information available to councillors prior to meetings on a more regular and informal basis, so they spend less time in meetings reading reports. Councillors and officers can work together to limit the volume of material councillors are sent to material that is relevant and useful to them.

Public scrutiny

The involvement of the public provides a unique perspective on how well public services are being delivered and how they could be improved, from the point of view of those receiving and using the services.

Members of the public can attend scrutiny meetings and can make their views known to their local councillors and members of the scrutiny committee. There are also opportunities for the public to get involved in a more meaningful way in task and finish reviews, which are covered in more detail later in the workbook.



Case study Successful scrutiny – Lincoln Against Poverty

Every year, the Centre for Public Scrutiny presents the Good Scrutiny Awards, which recognise councils who have undertaken successful scrutiny work. The 2015 top winner was the City of Lincoln Council for their Lincoln Against Poverty scrutiny work. Here is a summary of the project.

Objective

To build an effective plan to tackle poverty that includes and is supported by over 120 partners from a wide range of organisations.

Scope

The review covered a wide range of topics including benefits and low income, accessing work, child poverty and education, health and housing. In Lincoln, one in four children lives in poverty, a significant number of residents are in fuel poverty, and the city is recognised as having one of the highest rates of acute deprivation in England.

Approach

In 2014, the Lincoln Against Poverty Conference was a key forum for delivering workshop sessions that focused on areas that had been reviewed, and enabled partners to explore and discuss the different facets of poverty and the support required to move beyond it in the coming year. The council used a wide range of data including statistical data, academic and organisational journals and reports, and case studies on those in the city experiencing poverty first hand.

Recommendations

From this extensive review project, and input from partners, 100 suggestions were put forward and used to develop the Lincoln Anti-Poverty Action Plan 2014/15. The impressive number of suggested actions implemented demonstrated not only the council's dedication to tackling this issue but the positive and effective outcomes that can be achieved by engaging relevant partners and the community.

Outcomes

Some of the key actions that were recommended or directly influenced by the Community Leadership Scrutiny Committee include:

- Relocating the Lincolnshire Credit Union from the outskirts of the city into Lincoln City Hall in the city centre. As a result, there were 78 new customers, 78 small loans were issued – key in challenging doorstep loans and resulting in an estimated £121,000 savings to customers by not using a doorstep lender.
- In partnership with City of Lincoln Council, Lincoln Christ's Hospital School, Lincolnshire Credit Union, and Barclay's Bank, Year 7 students undertook money awareness and the benefits of savings courses. Students were provided with the opportunity to open savings accounts and were encouraged to start the savings programme through an incentive scheme set up by the City of Lincoln Council.
- A loan shark awareness programme was undertaken involving the extensive use of multiple media platforms to deliver the message. As a result, 48 per cent of clients surveyed at the JobCentre were aware of the campaign, the Lincoln Citizens Advice Bureau saw a 12.4 per cent increase in people seeking advice compared to the year before, and the Lincoln Christians Against Poverty saw a five-fold increase in waiting times for debt advice.
- Finally, the re-distribution and recycling of large household items was improved, as well as a better alignment of food bank and welfare services to address changing situations of those in need.

You will find more examples in Successful Scrutiny Good Scrutiny Awards, which is published on the CfPS website: www.cfps.org.uk

Work programming

The role of scrutiny is to achieve positive outcomes for local people by undertaking a thorough, targeted examination of the council's service provision and procedures. However, it is not possible to examine every service in detail, so it is important for the scrutiny committee to prioritise and plan its workload. Some councils do this at the beginning of each year and some do it on an ongoing basis.

Planned scrutiny

Work programming is the process for determining which topics scrutiny will look at over the coming year, either at committee meetings or

in task and finish groups. This involves evaluating a number of factors to decide which topics are to be investigated and when. The process will typically involve long-listing and then short-listing topics before making a final decision.

Responsive scrutiny

Whether planned scrutiny takes place at the beginning of the year or on an ongoing basis, the priorities for scrutiny need to be monitored and evaluated on an ongoing basis. This makes sure scrutiny can be flexible and responsive to high-priority issues or policy changes that occur throughout the year.



Hints and tips

The scrutiny topic selection process

Each council has its own method for selecting topics for scrutiny; in some councils there may be a very structured selection process, whilst in others it may be more informal. Whatever level of detail is involved, the general process should include the following activities.

1. Identify issues

You can identify potential issues by:

- consulting with all members of scrutiny committees, senior officers, cabinet members and council officers
- looking at corporate priorities, business plans and the Forward Plan of the council (and the council's neighbours)
- considering events and decisions in the council's calendar that could require an input from scrutiny, such as setting budgets
- evaluating previous council performance and identifying any follow-up work required to previous scrutiny work
- carrying out work to engage with local people, for example through surgeries, local media, opinion surveys and online forums.

2. Prioritise topics

Identify and prioritise potential scrutiny topics, considering the resources they would require and the level of impact they could achieve.

3. Plan scrutiny work

Decide which scrutiny topics to review and include them in the work programme.

4. Review and evaluate

Review progress and evaluate outcomes to demonstrate the value added by scrutiny.



Guidance Criteria for selecting scrutiny topics

The following criteria provide a useful guide for prioritising and selecting which topics are suitable for scrutiny to review.

Topics **are** suitable for scrutiny when:

- scrutiny could have an impact and add value
- the topic is of high local importance and reflects the concerns of local people
- the resources are available that would be required to conduct the review, in terms of manpower and budget
- it avoids work duplication elsewhere
- the issue is one that the committee can realistically influence
- the issue is related to an area where the council, or one of its partners, is not performing well
- the issue is relevant to all or large parts of the local area
- the review would be in the council's interests.

Topics **are not** suitable for scrutiny when:

- the issue is already being addressed elsewhere and change is imminent
- the topic would be better addressed elsewhere (and will be referred there)
- scrutiny involvement would have limited or no impact upon outcomes
- the topic may be sub-judice or prejudicial to the council's interest
- the topic is too broad to make a review realistic
- new legislation or guidance relating to the topic is expected within the next year
- the topic area is currently subject to inspection or has recently undergone substantial change.

Defining scrutiny topics

For every item on the work programme/new referral, it should be clear:

- What is the issue/activity/project under consideration?
- What is scrutiny being asked to do?
- What are the reasons for/expected benefits of involving scrutiny in the matter?
- Is there a specific deadline for the piece of work?



Challenge 1 – prioritising topics

Consider the issues that are important to the people you represent in your ward. List the five issues you think are the most important, then put them in order of priority; make a note of your reasoning. Do you know all the information you need to handle complaints effectively? Consider these statements to identify any gaps. If you answer ‘no’ to any of them, take some time to find the answers from your council’s website or your work colleagues.

1

2

3

4

5

Think about how you would translate these into strategic issues. Here is an example:

The issue

A number of residents have been complaining that the trees in the local area are not being pruned regularly enough, becoming a hazard and presenting a potential danger to the public. Complaints include difficulty in walking on the pavement, damage to tall vehicles, trip hazards from tree roots and gardens being overshadowed by trees.

Strategic considerations

The council needs to consider how it allocates its Environmental Services’ resources so that it can be efficient whilst also meeting the needs of local residents. It can look at:

- how services are procured, commissioned and contracted
- which are the most hazardous streets and where the biggest improvements can be made
- prioritising and planning a programme of work for tree pruning.

How scrutiny works

The ongoing formal business of scrutiny is usually carried out by committees, the purpose and composition of which is defined by legislation. The scrutiny committee chair is usually proposed by the council executive, although Full Council votes on the membership of committees and chairs at council AGM.

Scrutiny work is also carried out in smaller, informal ‘task and finish’ groups, which are not covered in legislation. These are time-limited bodies established by scrutiny committees to gather evidence and produce recommendations on a specific subject.

The overview and scrutiny committee

Councils that operate under executive arrangements are required by law to have an overview and scrutiny committee. This must be composed to reflect the political proportions of the council as a whole (so, for example, in a council with 25 Conservatives and 20 Labour councillors, a scrutiny committee may have five Conservative and four Labour members). The chair of the scrutiny committee can represent any political party; when considered collectively they do not need to be politically balanced.

Councils using a committee system of governance are not required by law to create an overview and scrutiny committee, but they may do so if they wish.

Members of the council’s executive **may not** sit on the overview and scrutiny committee; cabinet assistants **may** sit on scrutiny committees, since the executive’s decision-making powers cannot be delegated to them. However, to avoid a conflict of interests it is common for assistants to be assigned to committees that do not reflect their portfolios.



Challenge 2 – scrutiny in your council

There is no prescribed structure for implementing scrutiny in a council – there may be one overview and scrutiny committee, or several committees and sub-committees. Find out how scrutiny is implemented in your council.

Scrutiny meetings

Scrutiny committee meetings are formal and public. They provide a forum whereby councillors can:

- discuss written information they have received, from the council and external bodies
- hear evidence from witnesses, which could include other councillors, council officers, experts, representatives from other organisations and members of the public
- question witnesses to gain a better understanding of the issues
- draw conclusions from their discussions and the evidence examined, in the form of an outcome.

Committee meetings usually involve one or more substantive written reports being tabled on issues selected by the committee and its chair on the basis of the work programme. The purpose of scrutiny is to provide recommendations for improvement, so it is important to have a clearly defined outcome at the end of the meeting.

The Local Government Act 1972 sets out a variety of requirements around formal committee meetings:

- They must be in public. The public may only be excluded if it is likely that confidential or exempt information will be disclosed.
- The agenda and related papers must also be made public at least five working days before the meeting, unless the meeting is convened at shorter notice. Certain papers may be excluded from publication if they contain confidential or exempt information.
- The council's constitution must have rules of procedure for overview and scrutiny committees, including provisions on:
 - public questions and the public's right to speak at the meeting
 - length of meetings and the use of motions to extend meetings where necessary
 - how witnesses will be managed
 - how the chair will conduct the meeting.

Task and finish groups

Task and finish groups are informal, usually small and time-limited bodies comprised of councillors and, often, co-optees brought in from outside the council for their specific skills and experiences. They are established by a parent committee to undertake a discrete piece of scrutiny work, and report back to that committee with their findings and recommendations.

Task and finish groups are not mentioned in legislation, although most councils make provision for them in their constitution. The following rules of thumb have been developed by CfPS:

- membership should be defined and agreed by the group's parent committee
- the parent committee should also decide on who should chair
- while party whips may nominate other councillors to sit on groups, the ultimate decision rests with the committee and the committee chair
- as far as possible, membership should loosely reflect the political proportionality of the authority (the only caveat being that attempts are usually made to involve smaller parties where they otherwise would not be entitled to a seat)
- members of the group (and even the chair) need not be drawn exclusively from the group's parent committee – any councillor can be nominated to participate
- decision-making in the group (ie deciding on the wording of a final report and deciding on recommendations) should be undertaken through consensus rather than through a vote, given the fact that the membership may not directly reflect political proportionality.

To demonstrate transparency and accountability, it is also recommended that task and finish groups make published information, minutes and evidence-gathering sessions accessible to the public.



Guidance

Effective scrutiny meetings

The role of the committee chair is critical in making sure the committee works as a team and fully understands the issues under discussion in scrutiny meetings. The chair takes an active role in leading and directing the discussion and managing any disagreement between committee members. This is covered in more detail later in the workbook.

There are a number of ways that scrutiny meetings can be made more effective, although a council's ability to do all of these will be limited by the resources it has available.

Agenda

Having clear criteria for assessing agenda items means that only necessary items make it onto the agenda.

Limiting the number of agenda items helps to keep meetings focused and easier to manage. Evidence from the CfPS Annual Survey suggests that any more than three substantive items per meeting is detrimental to its effectiveness.

Preparation

You can make the best use of your time in preparing and attending meetings by prioritising and planning any information you need to prepare or read beforehand.

Effective agenda management, where councillors are provided with a short briefing and key sources of corporate information prior to meetings, can also help to minimise the amount of time spent during the meeting on reading documents, and means more time can be spent on analysis and discussion.

Pre-meeting

If time and resources allow, holding a pre-meeting to plan questions can help to ensure that topic selection is based on councillor interests, so everyone will be willing to make a contribution.

Objectives

Having clearly defined and agreed objectives and outcomes for the meeting means that:

- councillors can work towards a common target in their questioning and witnesses can be fully prepared
- discussions can be easily summarised at the end of the meeting and in the minutes, with a focus on actions, post-meeting communication and follow-up work
- findings and conclusions can be more easily converted into clear, concrete recommendations at the meeting.

Outcomes

Defining outcomes at the end of the meeting makes sure that agenda items are concluded with certainty and there are no 'repeat items' at the next meeting.

It also makes it possible to monitor progress on outcomes and commitments at the following meeting.

Co-optees

Council scrutiny functions have the opportunity to co-opt people from outside the council to sit either on scrutiny committees (as voting or non-voting co-optees) or on task and finish groups.

The formal appointment of a co-optee onto an overview and scrutiny committee is provided for in the Local Government Act 2000. Task and finish groups may co-opt group members without restriction.

For councils responsible for education functions, there is a requirement for certain co-optees to be appointed to the relevant committee. The provisions in the 1996 Act apply to overview and scrutiny committees by virtue of Schedule 1 of the 2000 Act.

For most councils, this will be two diocesan representatives (one Church of England, one Catholic) and two parent governor representatives (one primary, one secondary, and both from maintained schools). Such co-optees have voting rights and are treated as opposition councillors for the purposes of political proportionality (in order to assure that the largest party retains an absolute majority at committee).

For task and finish groups, the parent committee chooses co-optees at the scoping stage. The co-optee's role is identical to that of a councillor member of the review group, but when it comes to making a final decision on a report or recommendations, in practice it will be councillors' views that take precedence.

Combined authorities

The Cities and Local Government Devolution Act 2016 requires that combined authorities in England have their own overview and scrutiny committee.

Combined authorities are bodies formed jointly by a number of councils in a geographic area. They are the formal basis for the devolution of powers from central government to local areas. As such, combined authorities will have a significant part to play in big decisions around economic development, skills and transport, as well as other areas such as health and social care. The scope and nature of these decisions mean that having robust scrutiny arrangements in place is particularly important.

A combined authority has been in existence in Greater Manchester for several years, but others have recently been established such as in the West Midlands, Tees Valley and Liverpool City Region. Government has not set out any national expectations – it is for local areas to decide how arrangements will work.

The large areas covered by combined authorities means that there will be logistical difficulties about getting councillors together for overview and scrutiny meetings. These meetings will be additional to those held in individual local councils, so there will be an additional workload for some councillors too. This means that it will be vital for combined authority overview and scrutiny committees to be extremely focused and targeted in their work.

In practice, combined authority overview and scrutiny committees will work similarly to joint committees (see below) although some of the legal and practical issues are slightly different.

General issues around governance under devolved arrangements are discussed in the CfPS paper 'Devo why, devo how?' (2015).

Joint committees

Joint committees are committees which have representatives from two or more local authorities. In particular, they have an important role to play in health scrutiny.

There are a number of considerations which need to be taken into account for a joint scrutiny committee to work effectively:

Logistics – finding mutually convenient venues to ensure no one councillor or authority loses out.

Work objectives – gaining broad agreement on the committee's aims and objectives.

Political and personal opinions – bringing together a larger number of people to sit on a committee makes it harder to find consensus and manage differences of opinion.

Resources – establishing and managing a joint committee requires a significant expense, which needs to be shared between the participating authorities.

The scrutiny review process

Scrutiny reviews can take place before or after a decision has been made.



Hints and tips

The scrutiny review process

Each council has its own process for conducting a scrutiny review, which will be influenced in part by the resources it has available. Here is a generic scrutiny review process.

Scope the review

- determine the key issues and objectives
- identify key stakeholders
- identify who needs to be involved
- decide what evidence needs to be gathered and how
- determine how the work will be managed
- consider potential risks and ways of managing them

Gather evidence

- undertake consultation through public meetings, surveys, workshops and focus groups
- carry out site visits
- source data and reports
- interview experts and witnesses
- conduct focus groups and workshops
- work with officers and councillors to research issues

Evaluate evidence

- consider all the evidence in the context of the scope of the project
- look at evidence alongside other sources of data to gain a comprehensive view of the performance of a given service

Report and make recommendations

- document the work carried out and what conclusions have been reached
- make recommendations
- distribute the reports and recommendations to the relevant stakeholders for approval

Implement

- agree and develop an implementation plan
- action the agreed recommendations
- feedback outcomes to stakeholders, including the local community

Monitor

- track progress of the changes being implemented
- evaluate and assess impact
- conduct further investigation and make additional recommendations if necessary

Pre-decision scrutiny

Pre-decision scrutiny is planned during the work programming activity and could take place immediately before a decision is made, or a more significant amount of time beforehand. By challenging assumptions and assessing what risks might arise from the implementation of a decision, scrutiny provides the opportunity to influence and improve decisions before they are finalised.

Councils are required to give 28 days' notice of a planned decision. The majority of councils publish their planned decisions in a Forward Plan, often with longer than 28 days' notice, so this is a useful scrutiny tool in identifying pre-decision topics. The decisions are brought to scrutiny as drafts of the final cabinet report.

Pre-decision scrutiny that is carried out immediately before a decision is made will have obvious time limitations, so it is best focused on key questions around the decision's implementation, risks and measures of success.

Scrutiny carried out several months before a decision is made will have more time and resources with which to delve into the fundamentals of the decision and propose alternative options. This is the best way to scrutinise major decisions and significant strategic matters. Overall, pre-decision scrutiny can help the decision-making process by:

Providing an impartial perspective – scrutiny can gather its own evidence to contribute towards the decision-making process, and consult those directly affected by the decision impartially and independently.

Challenging assumptions and making evidence-gathering more robust – scrutiny can look at projections relating to the impact of the decision – financial, social, economic, environmental – and consider whether those projections and assumptions are justified.

Developing realistic plans and targets – scrutiny can help to develop challenging but realistic targets that will be impartial and focused on outcomes rather than outputs.

Securing ownership and buy-in to the final decision – engaging with scrutiny will help the executive to understand the expectations of the wider group of elected councillors and, by extension, the public.

Engaging with and satisfying the public – scrutiny can help the council to understand local needs, with public engagement being led by councillors who approach discussions with no vested interest or stake in the final decision.

Post-decision scrutiny and call-in

Post-decision scrutiny takes place in response to decisions that have already been made. This is particularly useful for influencing policy changes in the medium to long term.

For decisions that have been made but not implemented, scrutiny has the power to call-in the executive to revisit a decision and delay its implementation. This applies only to 'key decisions', which are predominantly decisions made by the executive, either as individuals or as a whole. Councils define key decisions in different ways, but usually these are decisions with implications over a certain financial threshold, eg over £250,000, and which affect two or more council wards.

The purpose of call-in is to provoke further debate on a topic of political contention. It acts as a means to draw attention to opposition to a decision, and provides a forum for that opposition to be voiced.

Call-in is a tool that should be used in exceptional circumstances and for issues of particular contention. To use it otherwise would prolong the decision-making process overall and create unnecessary tension between the executive and the scrutiny committee. Effective pre-decision scrutiny will help to avoid the need for call-in.



Challenge 3 – the call-in process in your council

The call-in process, and the approach to managing call-in meetings, differs from council to council. Make a note here about how your council manages call-in.



Case study Scrutiny and policy development

Brighton and Hove's Traveller Strategy Scrutiny Review Panel (2011) conducted its scrutiny review alongside the executive's preparation of a Traveller Strategy. The strategy was amended in response to recommendations in the scrutiny review.

Brighton and Hove City Council was looking to create a strategy for Gypsies and Travellers which was forward thinking and inclusive. The council hoped to pioneer new ways of addressing their needs while remaining sensitive to their traditional lifestyle, as well as providing basic services such as education and health, and fostering good relationships with local Traveller and Gypsy communities.

Unauthorised encampment was an unwelcome and costly issue for the council. The scrutiny panel's recommendations recognised that the creation of a permanent

site, managed by the council, was key to reducing tensions and could help facilitate mutual understanding. Evidence showed that solving the issue of accommodation could significantly curb economic costs. Also, when Gypsies and Travellers are in authorised sites returns are generated in rent, council tax and utility bills.

The recommendations were supported by evidence gathered from 31 expert witnesses as well as written evidence.

www.brighton-hove.gov.uk

Gathering evidence

There are several methods for using meetings to gather evidence.

‘Scrutiny day’ or ‘challenge panel’

This is a half-day or full-day session where scrutiny councillors, and others, come together to gather evidence on a topic and to make recommendations. This is the standard approach taken by a number of councils.

Light touch review

This is a review of a narrow topic which might involve holding two or three evidence-gathering meetings over the course of about a month.

Full length review

This involves members meeting periodically over the course of several months and was the traditional approach to scrutiny reviews in many councils until quite recently. The resource involved can be significant.

Standing panels

Standing panels are bodies set up to provide oversight for an ongoing council process. They are used when scrutiny is shadowing a time-limited piece of work carried out by someone else – for example, the council’s budget preparation or a major NHS reconfiguration.

Sources of information

The information gathered during a scrutiny review, and where to find it, will depend on the topic under review. In the interests of efficiency, scrutiny councillors have a responsibility to actively seek out information for themselves, so it is important that you are aware of what information is available and how to access it. Here are some examples of information that could be useful.

Information on performance, finance and risk

- quarterly performance and finance reports
- programme and project management information
- risk registers
- complaints logs
- internal reviews and action plans

Strategic information

- budget and policy frameworks
- external inspection reports
- corporate peer challenge letters, reports and information
- departmental plans and strategies
- partnership plans and strategies
- council or partnership programmes
- cross-departmental strategies
- improvement plans
- information from benchmarking clubs, where councils share information

Feedback

- from consultations and residents’ panels
- from frontline staff



Challenge 4 – where to find information

You will have direct access to much of the information you need through your council's website or internal computer systems. There is a benefit to reviewing raw data, rather than a report prepared by an officer, in that it allows you to use your unique perspective as an elected representative, with detailed knowledge of your ward, to make your own links and connections between performance issues.

Do you know where to find management information for your council?

Make a note of where your council makes this kind of information available.

Using evidence effectively

Using evidence effectively means looking at it alongside other sources of data, to see what themes emerge and whether different evidence sources disagree about services being provided on the ground.

For example, customer complaints data can be compared with performance information, finance information and risk registers, to take a comprehensive view of the performance of a given service. While performance information may suggest that all targets are being met, the service may be overspending and complaints data may demonstrate that the public are unhappy with the level of service being provided – an issue which has not been identified in the risk register as needing action. Linking together information in this way allows judgements to be made about difficulties which can help to frame and focus solutions in a way that will be useful to officers delivering the service on the ground.

Making a recommendation

Recommendations are the way that scrutiny can have an impact. Making good recommendations, and monitoring them, makes it more likely that scrutiny's work will add value.

A good recommendation is:

- specific about the change recommended
- evidence-based and realistic
- focused on measurable outcomes
- addressed to a specific person or group
- realistic about financing requirements
- developed in partnership with the executive, council officers and council partners.

There is a legal requirement for the executive to respond to recommendations within two months of them being made. If recommendations are made to a named partner organisation, however,

they do not have a duty to formally respond, although they do have a responsibility to 'have regard to' the recommendations.

The response to a recommendation from a decision-maker should consist of:

- a clear commitment to delivering the measure within the timescale set out
- a commitment to be held to account on that delivery in six months' or a year's time
- where it is not proposed that a recommendation be accepted, the provision of detailed, substantive reasons why not.

Scrutiny can help decision-makers to view recommendations in a positive light, and submit acceptable responses, by agreeing beforehand when and how recommendations will be made, and what an acceptable response will look like.

Monitoring recommendations

It is scrutiny's responsibility to monitor and evaluate recommendations once they are implemented, even though it is not their responsibility to deliver the changes.

Tracking the progress of recommendations does not require full scrutiny reviews, but a simple check that after six or twelve months they are being implemented and the outcomes detailed in the decision-maker's response are being fulfilled. Action can be taken if required; if everything is on track, scrutiny can trust the implementations are being made satisfactorily and move on.

Working with others

The effectiveness of the scrutiny committee relies on it establishing positive relationships with the council's executive, its officers and partner organisations.

The council executive and officers

The responsibility for scrutiny working well is shared with the council's executive, which has a duty to ensure its members do not undermine or denigrate scrutiny.

The Local Government Act 2000 requires the council executive and officers to:

- Attend meetings when required to do so. The word “require” is not defined in the Act but it can be assumed that it does not confer a choice as to whether or not to attend.
- Provide information, where required to do so. Again, this must be complied with.
- Respond to recommendations.

With some planning and consideration, scrutiny can make it easier for the executive and officers to engage with scrutiny, therefore making it more likely that they will accept and implement recommendations. The scrutiny committee can do this by:

- being clear about why topics have been chosen for scrutiny review and demonstrating, where possible, how they fit with the executive's priorities
- making invitations to scrutiny committee meetings far enough in advance that people are more likely to have availability
- being clear about the purpose of committee meetings and why people are being invited to attend

- where possible, sharing scrutiny reports and recommendations in draft form; this makes sure there are no unpleasant surprises for anyone, and allows the executive to highlight where it feels recommendations may require alteration for practical reasons
- defining the content and format of the executive's response to recommendations
- involving the executive and officers in discussion and dialogue as the work programme is put together
- making sure the executive's viewpoint is fully understood and reflected in scrutiny review reports.

A number of councils have developed a protocol to manage the scrutiny/executive relationship.

Statutory officers

Councils are required to designate two statutory officers who, between them, share the responsibility to protect and promote the scrutiny function: the scrutiny officer and the monitoring officer. They are ultimately responsible for securing good governance within the authority.

From time to time, questions and concerns will arise about the operation of the scrutiny function, and an officer will need to make a determination about what the law says, and how this should be applied to that particular situation. The scrutiny officer and monitoring officer need to have a nuanced and meaningful understanding of the scrutiny function in order to accurately make judgements about its operation when disagreements or other issues arise.

The scrutiny officer

The scrutiny officer has the responsibility for promoting the role of overview and scrutiny, supporting overview and scrutiny committees, and providing advice to officers and councillors about overview and scrutiny committees. This includes activities such as:

- providing, or managing, administrative work
- undertaking research
- analysing data
- preparing reports.

The scrutiny officer cannot be the council's head of paid service, the monitoring officer or the chief finance officer (s151 officer). They will not necessarily have the word 'scrutiny' in their job title; similarly, someone with the job title 'scrutiny officer' will not necessarily be the council's statutory scrutiny officer.

District councils in areas where there is also a county council, and shire districts in two-tier areas, do not have a duty to designate a statutory scrutiny officer.

The monitoring officer

The monitoring officer is responsible for ensuring that the council operates within the law. Their principal responsibilities are:

- to report on matters they believe are, or may be, illegal or amount to maladministration
- to be responsible for the conduct of councillors and officers
- to be responsible for the operation, review and updating of the constitution; this includes providing advice on the interpretation of the constitution, and making determinations where necessary.

The view of the monitoring officer on the meaning of the law as it relates to local government, and the council's constitution, is final. When issues arise around the scrutiny function, the scrutiny officer can provide advice

to the monitoring officer to assist them in reaching a decision or determination.

Scrutiny and partner organisations

Councils often work with partner organisations to deliver services. These could be in the private, public or voluntary sectors and include:

- contractors
- organisations with whom the council has jointly commissioned services
- organisations that the council funds to deliver certain services by means of grant funding or service level agreements.

It is likely that any service a council delivers, and therefore any scrutiny review, will involve a partner organisation in some way. Scrutiny has statutory powers to investigate the work of a council's partners.

Health

Health scrutiny committees may investigate any health-related issue in their area, and have an obligation to invite interested parties when they choose to carry out such investigations. When they make recommendations to local NHS bodies, scrutiny committees have the right to require a response within 28 days. Scrutiny can carry out investigations on its own initiative, or at the suggestion of Local HealthWatch.

Where scrutiny finds issues around substantial developments or reconfigurations of local health services, the council (rather than the scrutiny committee) has the power to refer it to the Secretary of State.

Community safety

Under the Police and Justice Act 2006, a committee of the council designated as a community safety scrutiny committee has the power to ask local community safety partners for information, request that those partners attend meetings (given reasonable notice) and require that those partners consider recommendations submitted to them.

Flood risk management

Following recommendations made by the Pitt Review, scrutiny committees have a formal role with regard to flood risk management, which allows for the review and scrutiny of such functions carried out by upper tier authorities.

Other partners

Scrutiny has some loose legal powers in relation to partner organisations working with the council to deliver public services. In real terms, though, it does not have any more rights than a private citizen, so it is important to foster positive working relationships with partners in order for scrutiny to achieve its objectives.

Scrutiny can, however, ask these partners to attend meetings, request information from them and require them to 'have regard to' their recommendations. There is no legal definition for 'having regard to', but some councils have defined it through scrutiny/partner protocols.

Contracted-out and commissioned services

These are not specifically provided for in legislation. However, scrutiny has a general responsibility to hold to account those people who commission services and manage contracts. This requires discussion and liaison with council officers in 'client-side' positions who are responsible for managing the relationship with contractors and providers.

Scrutiny is beneficial in this context because its perspective is informed by listening to and understanding the experiences of local people, thereby measuring services in terms of value to the community.



Hints and tips How to engage partners in scrutiny

Early planning and dialogue, to set out mutual expectations, is critical for encouraging partners to engage in scrutiny.

- Talk to partners early on to discuss the work programme (talking about topics you're considering looking at, and thinking about how they can be cast so as to better complement partners' own work).
- Ensure that partners know what to expect and understand the purpose of whatever meetings they are invited to and the overall purpose of the work on which you're engaged.
- Make sure that the scrutiny process is made transparent for partners, by providing them with agendas and associated information well in advance.
- Use one-off 'challenge panels' or 'scrutiny days' rather than expecting partners to be able to support a detailed piece of ongoing work.
- Be clear about how the information provided by partners will be used.

You can find more information in the CfPS 'Practice Guide 9: Engaging with partners'.

Other scrutineers

There are other organisations that also have a responsibility to scrutinise distinct public policy areas. It is important that scrutineers work together in the interest of streamlining governance and with a view to sharing the limited resources available to scrutiny.

Joint working includes activities such as sharing information, carrying out informal background research and working on a formal joint task force or committee.

Other scrutineers include:

Local government

- other tiers of government
- local neighbourhood and area structures
- the Local Government Association (LGA), which carries out corporate peer challenges
- OFSTED for children's services inspections
- the audit committee

Health

- Local HealthWatch
- Care Quality Commission
- NHS regulation organisations
- Education
- school governing bodies
- Policing
- police and crime panels
- police and crime commissioners

Fire

- fire and rescue authorities

Useful skills

Questioning techniques

Questioning is a crucial component of the 'critical friend' challenge and an important principle of good public scrutiny. The key to successful questioning is balancing the need to get answers with the need to build strong relationships. This can be achieved by a combination of good preparation, knowing what questions to ask and when to ask them, and understanding which style is appropriate for different situations.

Questioning is best carried out after some preliminary evidence gathering and research has been undertaken, so that questions can be targeted on the appropriate issues and the appropriate witnesses can be identified for questioning.

A pre-meeting can be a useful preparation tool to decide how to carry out the questioning, for example:

- Who will ask the questions?
- How the questions will be organised?
- Will the chair call people to ask questions in a free format, or will the use of supplementary questions will be tightly defined?
- Which types of question to use for different witnesses?
- How to respond to a witness who is unhelpful or evasive?



Hints and tips **Selecting witnesses** **for questioning**

- How will speaking to this witness help to achieve scrutiny's objectives?
- Will this witness be willing to help?
- Can this evidence be acquired from anywhere else?
- Will it be necessary to balance this witness's views with the views of others, as part of the wider evidence gathering?



Hints and tips Question types

Open questions

Open questions allow the witness to open up and to share all the information they have. Encouraging the witness to elaborate early on will allow them to speak and will calm their nerves. This will help them to relax, and can be helpful in ensuring the witness will answer further questions in a more helpful manner.

Useful phrases:

- How...?
- Why...?
- When...?
- Who...?
- What...?

Closed questions

Where a simple yes or no answer will suffice it is advisable to stick to closed questions (such as when checking a fact). Closed questions are harder to avoid and easier to challenge.

Useful phrases:

- Did you ...?
- Have you told.....?
- What I think I'm hearing is... is that right?

Reflecting questions

These are used to clarify something which has been said, and/or to get the respondent to speak about a subject in more depth.

Useful phrases:

- You said that...
- You sound as if
- I get the feeling that

Extending questions

Extending questions invite the witness to offer more information, and to elaborate on what they have already said.

Useful phrases:

- How else could...?
- Could you tell me more about..?

Comparative questions

These can be used to compare situations (for example on a before and after basis).

Useful phrases:

- What has it been like since...?
- What difference has...?

Hypothetical questions

The use of hypothetical frameworks allows the witness to answer a question from a safer theoretical position and may encourage them to explore issues in more depth.

Useful phrases:

- If...
- Imagine...

Rephrasing or paraphrasing

Another technique that can be used to clarify something that has been said by the witness, it may also encourage the witness to elaborate on their previous answer and provide more detail.

Useful phrases:

- Are you saying that...?
- Let me see if I understand the problem completely...

Linking questions

Linking questions rely on active listening on the part of the scrutineer (see below). By linking previous responses offered by the witness to other issues the scrutineer is able to demonstrate that he has valued the witness's input. This technique may then encourage the witness to offer further explanation

Useful phrases:

- You mentioned earlier that...
- How would you....?

The CfPS provides more detail in their 'Skills Briefing 1: Questioning Skills'.

Listening skills

Listening skills are an important part of the scrutineer's role and are closely linked with questioning. Active listening ensures the witness feels that they are being properly heard and understood, which can help to facilitate further questioning.

The basic principles of active listening are:

Positive body language – look attentive and show positive signs of encouragement; consider the body language of the witness to gain a fuller understanding of their response.

Check understanding – use paraphrasing and repetition to check that you have understood the witness.

Take notes – these can be referred to later or used to challenge the witness if an explanation has not been fully understood, or where a contradiction has appeared in the witnesses statements.

Chairing scrutiny

The chair of a scrutiny committee should seek to provide, through strong leadership, a good environment for the constructive challenge of decision-makers. They should foster discussion and encourage all concerned stakeholders to be involved in the process, whilst ensuring that all opinions are expressed in a constructive manner that contributes to the intended outcomes of the process.

The chair is also responsible for ensuring that the scrutiny process – within and outside the context of formal committee meetings – is managed in a way that creates a fair and balanced environment, keeping the scrutiny process free from political point scoring and allowing for the effective scrutiny of all evidence that is produced.

In summary, the chair needs to ensure that all work being delivered by the committee, or panel:

- makes a positive impact on services
- promotes good practice
- challenges underperformance
- acts as a catalyst for change
- deals, where appropriate, with relevant partnership issues.

The CfPS 'Skills Briefing 2: Chairing and Leadership in Scrutiny' provides an in-depth look at the role of the scrutiny committee chair.

Final summary

It is important that all levels of government are scrutinised and held accountable for the decisions they make and the impact they have on local communities. In local government, the scrutiny function ensures that decisions made by the council executive are transparent and robust, and ultimately focused on improving public services.

Being an effective councillor, representing the needs of your community, requires a commitment to promoting scrutiny and ensuring that it takes place. It is a tool which you can use to make sure your local community's needs are reflected in the decisions made by the council – a unique perspective afforded to you by being a councillor.

Effective scrutiny involves:

Effective work programming – planning ahead, selecting appropriate topics, allocating time and resources, scoping and planning activities.

Positive relationships – fostered through effective communication with the council's executive, officers, partners and other scrutineers.

Effective research and analysis – examining raw data and prepared reports, using appropriate questioning techniques and selecting appropriate witnesses.

Effective meetings – preparing the meeting and the invitees, communicating in advance and afterwards, staying on topic, summarising and confirming decisions.

Specific recommendations – stating what needs to change, associated time scales, who needs to be involved and how it should be implemented.

Good monitoring and evaluation – ensuring that recommendations are being implemented and measuring success in terms of outcomes.

Appendix – sources of further information and support



The Centre for Public Scrutiny (CfPS) has published a series of practice guides and skills briefings which are available from its website www.cfps.org.uk.

The Local Government Association (LGA) produces a number of development materials for councillors, including resources on how to chair meetings. All materials are published on their website www.local.gov.uk.



Local Government Association

Local Government House
Smith Square
London SW1P 3HZ

Telephone 020 7664 3000

Fax 020 7664 3030

Email info@local.gov.uk

www.local.gov.uk

© Local Government Association, August 2017

For a copy in Braille, larger print or audio,
please contact us on 020 7664 3000.
We consider requests on an individual basis.

REF 11.64