PETERBOROUGH
CITY COUNCIL

CONSTITUTION AND ETHICS COMMITTEE

MONDAY 8 JULY 2019
7.00 PM

Bourges/Viersen Room - Town Hall

AGENDA

Page No

1. **Apologies for Absence**

2. **Declarations of Interest**

3. **Exclusion of the Public and Press**

   To resolve that the press and public be excluded from the meeting on Item 12, Officer Code of Conduct on the grounds that the item contains exempt information under Paragraph 4 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended, and that it would not be in the public interest for this information to be disclosed (Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority).

INFORMATION ITEMS

7. **Dispensations Update**

   There are no issues to report.

8. **Updates on National Issues**

   There are no updates on National Issues for this meeting. Members are to be made aware that the Local Government Association have yet to publish any revised national code of conduct.

Emergency Evacuation Procedure – Outside Normal Office Hours

In the event of the fire alarm sounding all persons should vacate the building by way of the nearest escape route and proceed directly to the assembly point in front of the Cathedral. The duty Beadle will assume overall control during any evacuation, however in the unlikely event the Beadle is unavailable, this responsibility will be assumed by the Committee Chair. In the event of a continuous alarm sounding remain seated and await instruction from the duty Beadle.

Recording of Council Meetings: Any member of the public may film, audio-record, take photographs and use social media to report the proceedings of any meeting that is open to the public. Audio-recordings of meetings may be published on the Council's website A protocol on this facility is available at:

http://democracy.peterborough.gov.uk/ecSDDisplay.aspx?NAME=Protocol%20on%20the%20use%20of%20Recording&ID=690&RPID=2625610&sch=doc&cat=13385&path=13385

There is an induction hearing loop system available in all meeting rooms. Some of the systems are infra-red operated, if you wish to use this system then please contact Dan Kalley on 01733 296334 as soon as possible.

Committee Members:

Councillors: Allen, Bashir (Vice Chairman), Iqbal, E Murphy, N Sandford, D Seaton (Chair), A Shaheed

Substitutes: Councillors: Simons, Jones, Skibsted and Wiggin

Further information about this meeting can be obtained from on telephone 01733 296334 or by email – daniel.kalley@peterborough.gov.uk

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**MINUTES OF THE CONSTITUTION AND ETHICS COMMITTEE MEETING
HELD AT 7:00PM, ON
MONDAY, 11 MARCH 2019
BOURGES/VIERSEN ROOM, TOWN HALL, PETERBOROUGH**

Present: Councillors Seaton (Chairman), Bashir, Allen, Smith, Murphy, A Iqbal, Sandford

Officers in
Attendance: Pippa Turvey, Democratic and Constitutional Services Manager
             Dan Kalley, Senior Democratic Services Officer
             Fiona McMillan, Director of Law and Governance and Monitoring Officer
             Amy Brown, Senior Lawyer Litigation and Deputy Monitoring Officer

Also in
Attendance:

33.   APOLOGIES FOR ABSENCE

There were no apologies received.

32.   DECLARATIONS OF INTEREST

There were none.

33.   MINUTES OF THE MEETING HELD ON 28 JANUARY 2018

The minutes of the meeting held on 28 January 2018 were agreed as a true and accurate record save for the deletion of the following:

"Councillor Murphy declared a personal interest in item 10 by virtue of having previously been the subject of a complaint"

34.   OFFICER EMPLOYMENT RULES

The Constitution and Ethics Committee received a report in relation to the updates to Officer Employment Rules.

The purpose of the report was for the Committee to agree the updated officer employment rules to ensure they accurately reflected the ways of working for officers of the Council.

The Director of Law and Governance introduced the report and made reference to shared working agreements with Cambridgeshire County Council

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:
● It was confirmed that this had been consulted on.

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to note and agree the proposed revisions to the Officer Employment Rules (Part 4 Section 9 of the Constitution).

35. LOCAL GOVERNMENT ETHICAL STANDARDS

The Constitution and Ethics Committee received a report in relation to the local government ethical standards.

The purpose of the report was to update the Committee on the Committee on Standards in Public Life report published on 30 January 2019 and to obtain the views of the Committee and to initiate any revisions to the Constitution, Member's Code of Conduct and any associated guidance.

The Director of Law and Governance and Monitoring Officer introduced the report and explained that a separate summary document had been drawn up as next steps should the Committee agree. It was important to wait for the outcome nationally before deciding what do locally. The Local Government Association (LGA) was looking at amending their current code of conduct model. A meeting of other monitoring officers across other authorities in Cambridgeshire were to look at sharing a code conduct so that it was easier for those who sat on multiple authorities to adhere to one code. A number of recommendations were dependent on the government changing the legislation.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:
● There may be a model code of conduct that the Council could look at once the LGA had published their new model.
● There were no surprises in the report, most next steps were to wait and see unless there was anything the Council could implement at this stage. By waiting for further guidance this would allow officers to see any elements that could be incorporated.
● There was a sense that sanctions were not strong enough and this came through in the report, however the LGA believed that the sanctions were adequate.
● It was worth looking at public disclosure around home addresses and the reasons why this information could be kept off the Council's website.
● It was important that the Council kept an overview of any cases of Councillor's being the subject of bullying. If anyone had suffered any bullying they could present information to the monitoring officer.
● A key argument would be around sanctions in upheld complaints.

It was essential that the Council awaited the Government response and the final response from the LGA. The Monitoring Officer was to liaise with other

local authorities to keep any proposed changes and recommendations under review.

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to:

1. Note the recommendations contained within the Committee on Standards in Public Life ("CSPL") report on Local Government Ethical Standards; and
2. Agree that once the model code of conduct has been revised to request the Monitoring Officer to revise the Members' Code of Conduct, Constitution, Hearings Procedure and Guidance as necessary to bring in to effect the required changes; and
3. To present the proposed revisions to the Constitution & Ethics Committee for consideration and recommendation to Full Council for approval as required.

36. AMENDMENTS TO COUNCIL STANDING ORDERS

The Constitution and Ethics Committee received a report in relation to proposed amendments to the Council's standing orders.

The purpose of the report was for the Committee to consider amending the Council's standing orders in relation to deadlines for motions and amendments to be received by Full Council.

The Democratic and Constitutional Services Manager introduced the report and stated that report stemmed from debate at the previous meeting. There were three areas to consider, namely around motions and amendment deadlines, the scope of amendments and motions procedure.

It was proposed that there be a shift forward in time in the stage of drafting motions to enable officers to assist members more effectively in drafting motions.

There was no scope within the constitution around questions from members. It was proposed that the scope outlined for questions from members of the public be copied for this purpose.

A flow-chart had been created to show members the flow of debate around motions and proposed amendments when being debated at Full Council.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:
- In terms of the order of debate, having this set out in graphical form was helpful and made the process clearer. People would only be allowed to speak on one occasion, whether this be the original motion or the amendment.
- It was surprising to see that the scope for questions from members was no longer in the constitution. It was likely to have slipped out when the constitution was re-drafted.
- There was concern around amendments to motions and the lack of time given to groups to write coherent amendments. The proposed timescale would not fit in with group meetings, creating more pressure on

members to draft amendments without these being seen by the rest of the group.

- There was an argument that members needed to work more collaboratively when sharing amendments to motions, allowing officers and cabinet members the opportunity to input at an earlier stage.
- In terms of the amendments to motions flow-chart for debate it was agreed that the seconder of the amendment would be allowed to speak before the seconder of the original motion. It was agreed that this would be updated before being presented to Full Council.
- The new deadlines would help the monitoring officer deal with motions if they were received earlier, especially with the joint role with Cambridgeshire County Council who had Full Council meetings around the same time as Peterborough.
- The new motions procedure would help streamline debate around the budget at Full Council, allowing for other business to be debated.

The Constitution and Ethics Committee considered and **RESOLVED** to recommend to Full Council that:

1. it be agreed to amend the Constitution at Part 4 Section 1 Standing Orders to: (4 for, 3 abstain)

   a) reflect the revised Council motion and amendment deadlines:
   - Draft Motions - 10.00am, 9 clear working days before the meeting
   - Final Motions - 10.00am, 7 clear working days before the meeting
   - Draft Amendments - 12 noon, 3 clear working days before the meeting
   - Final Amendments - 12 noon, the day before the meeting b) include a section on 'Scope of questions' in relation to questions from Members, as set out in paragraph 4.2.2 of the report. (For 6, 1 against)

2. it be agreed to amend the Constitution at Part 4 Section 1 Standing Orders to allow for motions and amendments to be debated together, as set out in paragraph 4.3.4 of the report, subject to mover and amendment switching order as per 4.3.4 (For 5, 2 abstain)

3. Training to be given if agreed at Full Council (Unanimous)

37.   SOCIAL MEDIA POLICY

The Constitution and Ethics Committee received a report in relation to the Councillors Social Media Policy.

The purpose of the report was to seek approval from the Committee to formalise a social media policy.

The Director of Law and Governance introduced the report and explained that the guidance had been circulated in March and in October 2018. This was now going to be circulated on a more formal basis.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:

- It was really good that the Council had a policy around this.
- It was up to Councillors to not use social media excessively during Full Council meetings. This had lead to a number of complaints from members of the public who perceived Councillors as not focusing at meetings.
- It was important that opposition Councillors had the opportunity to criticise and hold the administration to account.
- At the current time comments made by Councillors on their private social media pages were not within the scope of acting as a Councillor. However it was important the Councillors were aware that comments of their own personal nature should only be made on private accounts.
- The issue around enforcing the code depended on potential changes that were required to the Localism Act.
- It was agreed that the word recommended that Councillors do not make excessive use of social media allowed for Councillors to be able to post to their constituents during meetings.

The Constitution and Ethics Committee considered and **RESOLVED** to:

1. agree the Social Media Code with additional recommendations as agreed by the Committee. (For 6, 1 abstain)
2. issue the Social Media Code to all members of the Council with immediate effect.

38. PETITIONS SCHEME UPDATE

The Constitution and Ethics Committee received a report in relation to the petitions scheme.

The purpose of the report was to seek approval for the updates in relation to requests for verge parking restrictions.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:
- This current amendment was helping to streamline the petitions process.
- The Committee would welcome looking at the issues around planning and the petitions scheme.

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to recommend to Full Council the updated petition scheme.

39. COUNCIL MEETINGS START TIME

The Constitution and Ethics Committee received a report in relation to changing the start time of Full Council meetings.

The Democratic and Constitutional Services Manager introduced the report and explained that a survey sent to all Councillors had returned a majority who wished the Full Council meetings to start at 6pm instead of 7pm.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:

- If there were to be additional events before the start of the Full Council meeting, such as Civic Awards, that the Council meetings would start at 6.30pm to allow for the additional events to take place.

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to agree to a proposed start time of 6pm being included within future schedules of meetings submitted to Full Council.

40. PARISH COUNCILLORS REGISTER OF INTERESTS - UPDATE

The Constitution and Ethics Committee received an update report in relation to Parish Council register of interests.

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to:

1. continue to monitor the situation and report back to the Committee.
2. receive an update in six months on progress made with training.

41. UPDATE ON ISSUES OF NATIONAL INTEREST

The Constitution and Ethics Committee considered and **RESOLVED** (unanimous) to note that there had been no further updates of national interest.

42. DISPENSATIONS GIVEN

The Constitution and Ethics Committee considered and **RESOLVED** (unanimous) to note that there had been no dispensations given since January 2019.

43. CODE OF CONDUCT COMPLAINTS RECEIVED SINCE OCTOBER 2018

The Constitution and Ethics Committee considered and **RESOLVED** (unanimous) to note that there had been no code of conduct complaints received since January 2019.

44. WORK PROGRAMME, FUTURE DATES AND MEMBER ISSUES

The Constitution and Ethics Committee received a report in relation to the Committee's Work Programme for the Municipal Year 2018/19.

The Constitution and Ethics Committee considered and **RESOLVED** (unanimous) to note the Committee's work programme for the municipal year 2019/20

7:00pm – 8.35pm
Chairman

9

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CONSTITUTION AND ETHICS COMMITTEE	AGENDA ITEM No. 5
8 JULY 2019	PUBLIC REPORT

Report of:		Fiona McMillan, Director of Law and Governance	
Cabinet Member(s) responsible:		Councillor Farooq, Cabinet Member for Digital Services and Transformation	
Contact Officer(s):	Paulina Ford, Senior Democratic Services Officer		Tel.01733 452508

STATUTORY GUIDANCE ON OVERVIEW AND SCRUTINY IN LOCAL AND COMBINED AUTHORITIES AND REVIEW OF THE GROWTH, ENVIRONMENT AND RESOURCES SCRUTINY COMMITTEE TERMS OF REFERENCE

R E C O M M E N D A T I O N S	
FROM: Director of Law and Governance	**Deadline date:** *N/A*

It is recommended that the Constitution and Ethics Committee::

1. Note the recently published Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities attached at Appendix 1, and
2. Consider the current role and effectiveness of scrutiny at Peterborough City Council in light of the guidance and if any changes in culture within the council are needed to ensure that the work of scrutiny is challenging, provides impact and positive outcomes for the people of Peterborough in the delivery of services.
3. Look at the Terms of Reference and workload of the Growth, Environment and Resources Scrutiny Committee compared to the other scrutiny committees as listed in Appendix 2 and Appendix 3 and:
   a. Consider if the remit of the Growth, Environment and Resources Scrutiny Committee should remain the same for this municipal year, or;
   b. Consider moving some of the services areas within the Terms of Reference of this Committee and redistribute them across to one of the other scrutiny committees if considered more appropriate or;
   c. Consider if there is a need to set up a new additional Scrutiny Committee to reduce the remit of the Growth, Environment and Resources Scrutiny Committee

1.   **ORIGIN OF REPORT**

1.1   This report is submitted to the Constitution and Ethics Committee following a request from Group Leaders.

2.   **PURPOSE AND REASON FOR REPORT**

2.1   The purpose of this report is for the Committee to consider the new Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities published by the Ministry of Housing, Communities and Local Government in May 2019. On considering the guidance the Committee should decide what actions, if any, should be taken to implement changes to the way overview and scrutiny is delivered at Peterborough City Council.

The guidance has been put in place to ensure local and combined authorities are aware of the purpose of overview and scrutiny and how to conduct it effectively.

2.2   This report is for the Constitution and Ethics Committee to consider under its Terms of Reference No. 2.7.2.1

Authority to oversee the operation of the Council's Constitution and authority to make recommendations to Full Council as to amendments and improvements to the Council's Constitution (including the codes and protocols) subject to the receipt and consideration of a report prepared by the Monitoring Officer, with the exception of those matters under the remit of the Executive.

2.3   This report links into each of the three Corporate Priorities:

●   Pride in our communities and environment

●   First rate futures for our children, young people - and quality support for our adults and elderly

●   Better jobs and quality homes

3.   TIMESCALES

Is this a Major Policy Item/Statutory Plan?	**NO**	If yes, date for Cabinet meeting	N/A

4.   BACKGROUND AND KEY ISSUES

4.1   STATUTORY GUIDANCE ON OVERVIEW AND SCRUTINY IN LOCAL AND COMBINED AUTHORITIES

Overview and scrutiny committees were introduced by the Local Government Act 2000 and were put in place to act as a counterweight to the new executive arrangements. There had not been an assessment of the effectiveness of overview and scrutiny since they had been put in place. In 2017 the Communities and Local Government Select Committee therefore decided to set up an inquiry into the Effectiveness of local authority overview and scrutiny committees. The terms of reference placed an emphasis on considering factors such as the ability of committees to hold decision-makers to account, the impact of party politics on scrutiny, resourcing of committees and the ability of council scrutiny committees to have oversight of services delivered by external organisations.

The outcome of the inquiry was published on 14 December 2017. The report can be accessed via the following link:
https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/369/36902.htm

Following the report statutory guidance was produced by the Ministry of Housing, Communities and Local Government which is aimed at local and combined authorities. It includes a number of policies and practices authorities should have due regard to when deciding how to carry out their overview and scrutiny functions. In particular, it provides advice for senior leaders, members of the overview and scrutiny committees, and support officers.

Key areas covered in the guidance are::

●   Culture
●   Resourcing
●   Selecting Committee Members
●   Power to Access Information
●   Planning Work
●   Evidence Sessions

The Committee are asked to consider the new guidance attached at Appendix 1 and decide if any further action is required.

The Centre for Public Scrutiny had just published an updated version of its "The Good Scrutiny Guide" to complement the new statutory guidance. It can be found at this link and attached at Appendix 4.

https://www.cfps.org.uk/the-good-scrutiny-guide/

4.2   **REVIEW OF THE GROWTH, ENVIRONMENT AND RESOURCES SCRUTINY COMMITTEES TERMS OF REFERENCE**

It has been suggested by some Scrutiny Members that the workload across the four scrutiny committees is unfairly distributed with the bulk of the workload going to the Growth, Environment and Resources Scrutiny Committee. Appendix 2 shows the remit of each committee and Appendix 3 shows the workload distribution for each committee over the past three years. It should be noted that the Growth, Environment and Resources Scrutiny Committee has only had four substantive items on the agenda at each meeting although these items have largely been policy related over the past two years, some of which have been considerably detailed in content.

Having analysed the meetings over the past two years it has shown that the average length of time for a meeting of this committee is 1 hour 53 minutes. The longest meetings held were as follows:
   ● 15 March 2017 - 2 hours 29 minutes in length - Items included: Portfolio Progress report for City Centre Management, Culture and Tourism, Update on the Peterborough Housing Strategy 2016 to 2021, Report on the Verge Parking Working Group
   ● 7 November 2018 - 2 hours 35 minutes in length - Items included a Call in of Fletton Quays Hotel Loan Facility, plus the normal substantive items which were Serco Annual Report, NPS Peterborough limited 2017-18, Portfolio Progress Report for Cabinet Member for Resources, Annual Corporate Corporate Complaint Report 2018/18, Affordable Housing Need and Delivery in Peterborough,
   ● 9 January 2019 - 2 hours 13 minutes in length - Items included Waste fly tipping, Minerals and Waste Local Plan, Shared Services Update, Council Asset Strategy

Current indications are that the workload of the Growth, Environment and Resources Scrutiny Committee is likely to be lighter in content going forward due to less policies and strategic plans due to be presented. The Committee always has the option to hold an additional meeting to scrutinise a specific item if they feel the item needs more in-depth scrutiny.

The above analysis would indicate that the last two years have been exceptional as the majority of items were either policies or strategies and therefore required more in depth scrutiny allowing less time at the meeting for other items on the agenda.

Members have, over the past two years, also felt at times that the work programme appears to have been more officer led due to the requirement for policies and strategies to be overseen by Scrutiny which has led to less opportunity for the Committee to suggest their own items for scrutiny. This year should provide more opportunity for Member-led content in the work programme.

However consideration may still need to be given to the service areas listed for each committee as listed in Appendix 2 and whether they are still relevant now that some services areas have moved directorate.

The Committee should bear in mind that if a recommendation is made to set up an additional scrutiny committee there will be an impact on Democratic Services staff resources. The scrutiny function is currently supported by two Democratic Services Officers who cover the core work for each of the scrutiny committees:

   ● 5 formal meetings a year per committee

- 4 Group Representatives / Agenda Planning meetings held a year.per committee
- 1 Annual work programming session to draft the work programme for the year held at the beginning of each municipal year per committee

In addition to the above there are 3/4 Joint Scrutiny of the Budget Meetings to support and occasionally call-in meetings. Scrutiny Task and Finish Groups are also set up per year to conduct an in depth review in to a particular issue. Currently there are two active Task and Finish Groups one of which will be completed in July 2019. The Task and Finish Groups run for approximately six months and can hold up to six meetings within that timeframe, all of which need Democratic Services Support.

5.   CONSULTATION

5.1   None

6.   ANTICIPATED OUTCOMES OR IMPACT

6.1   The Constitution and Ethics Committee will consider the content of the report and decide whether further action will need to be taken in relation to a) the new Statutory Guidance on Overview and Scrutiny in Local and Combined Authority and b) the remit and workload of the Growth, Environment and Resources Scrutiny Committee.

7.   REASON FOR THE RECOMMENDATION

7.1   The recommendation has been made so that the Committee can consider the new Statutory Guidance on Overview and Scrutiny in Local and Combined Authority and the remit and workload of the Growth, Environment and Resources Scrutiny Committee.

8.   ALTERNATIVE OPTIONS CONSIDERED

8.1   None

9.   IMPLICATIONS

Financial Implications

9.1   None at present.

Legal Implications

9.2   None

Equalities Implications

9.3   None

10.   BACKGROUND DOCUMENTS
Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

10.1   Effectiveness of Local Overview and Scrutiny Committees

11.   APPENDICES

11.1   Appendix 1 - Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities
Appendix 2 - Current Scrutiny Committees Terms of Reference
Appendix 3 - Scrutiny Committees Work Programme Comparisons
Appendix 4.- Good Scrutiny Guide

Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities

Contents

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.

Rishi Sunak MP
Minister for Local Government

4

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.

5

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.

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[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.

6

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 powers[2] 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.

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

7

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.

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[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

13

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

<u>Officer resource models</u>

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.

14

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 Scrutiny[5].

> 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.

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[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).

<u>Selecting a chair</u>
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 relatives[8]. Combined authorities should note the legal requirements that apply to them where the Chair is an independent person[9].

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 Chair[10].

<u>Training for committee members</u>
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.

<u>Co-option and technical advice</u>
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.

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[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.

16

36. There are two principal ways to procure this:
    - Co-option – formal co-option is provided for in legislation[11]. 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).

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[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 information[12]. 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 decision[13]. 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.

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[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 member[14]. 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 questions[15]. 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;

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[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.

19

c) **<u>How to encourage compliance with the request</u>** – 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) **<u>Who to approach</u>** – 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.

<u>Following 'the Council Pound'</u>
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.

20

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 Partnerships[17]; 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.

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[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) **<u>At a task and finish review of two or three meetings</u>** – 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) **<u>Via a longer-term task and finish review</u>** – 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) **<u>By establishing a 'standing panel'</u>** – this falls short of establishing a whole new committee but may reflect a necessity to keep a watching brief over a critical local issue, especially where members feel they need to convene regularly to carry out that oversight. Again, the resource implications of this approach means that it will be rarely used.

7. Evidence Sessions

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

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

How to plan

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

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

61. As far as possible there should be consensus among scrutiny members about the objective of an evidence session before it starts. It is important to recognise that members have different perspectives on certain issues, and so might not share the objectives for a session that are ultimately adopted. Where this happens, the Chair will need to be aware of this divergence of views and bear it in mind when planning the evidence session.

62. Effective planning should mean that at the end of a session it is relatively straightforward for the chair to draw together themes and highlight the key findings. It is unlikely that the committee will be able to develop and agree recommendations immediately, but, unless the session is part of a wider inquiry, enough evidence should have been gathered to allow the chair to set a clear direction.

63. After an evidence session, the committee might wish to hold a short 'wash-up' meeting to review whether their objectives were met and lessons could be learned for future sessions.

Developing recommendations

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

65. The drafting of reports is usually, but not always, carried out by officers, directed by members.

66. Authorities draft reports and recommendations in a number of ways, but there are normally three stages:

    i.   the development of a 'heads of report' – a document setting out general findings that members can then discuss as they consider the overall structure and focus of the report and its recommendations;

    ii. the development of those findings, which will set out some areas on which recommendations might be made; and

    iii. the drafting of the full report.

67. Recommendations should be evidence-based and SMART, i.e. specific, measurable, achievable, relevant and timed. Where appropriate, committees may wish to consider sharing them in draft with interested parties.

68. Committees should bear in mind that often six to eight recommendations are sufficient to enable the authority to focus its response, although there may be specific circumstances in which more might be appropriate.

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

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

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

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

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

The protocol, as agreed, may contain sections on:

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

Annex 2: Illustrative Scenario – Engaging Independent Technical Advisers

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Current Scrutiny Committee Structure

Growth, Environment & Resources Scrutiny Committee	Adults and Communities Scrutiny Committee	Children and Education Scrutiny Committee	Health Scrutiny Committee

Functions determined by the Council
 	
1. City Centre Management;
2. Tourism, Culture & Recreation;
3. Libraries, Arts and Museums;
4. Environmental Capital;
5. Economic Development and Regeneration including Strategic Housing and Strategic Planning;
6. Transport, Highways and Road Traffic;
7. Flood Risk Management;
8. Waste Strategy & Management;
9. Strategic Financial Planning;
10. Partnerships and Shared Services; and
11. Digital Services and Information Management.
	Functions determined by the Council
	
	1. Adult Social Care;
	2. Safeguarding Adults;
	3. Housing need (including homelessness, housing options and selective licensing);
	4. Neighbourhood and Community Support (including cohesion, community safety and youth offending) and; Equalities
	
	Functions determined by Statute
	
	To review and scrutinise crime and disorder matters, including acting as the Council's crime and disorder committee in accordance with Sections 19 of the Police and Justice Act 2006;.
		Functions determined by Council
		
		1. Children's Services including
		  a) Social Care of Children;
		  b) Safeguarding; and
		  c) Children's Health.
		2. Education, including
		  d) University and Higher Education;
		  e) Youth Service;
		  f) Careers; and
		  g) Special Needs and Inclusion.
		3. Adult Learning and Skills
			Functions determined by the Council
			
			1. Public Health;
			2. The Health and Wellbeing including the Health and Wellbeing Board; and Scrutiny of the NHS and NHS providers.

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Appendix 3   **2016 to March 2019 Scrutiny Work Programme Comparison**

Name of Committee	2016/2017 Items on Work Programme	2017/2018 Items on Work Programme	2018/19 Items on Work Programme
Growth, Environment and Resources Lead Director – Dave Anderson / Steve Cox	5 Standard meeting covering 16 Substantive items – 3 / 4 items per meeting plus the standing items of ● Forward Plan ● Work programme. Additionally 1 Joint Scrutiny Budget Meetings One Scrutiny Task And Finish Group to review The Amey Contract Street Cleansing Services – established 8 September 2016, concluded 25 October 2016. **Policy / Plans / Consultation** ● The Draft Peterborough Housing Strategy ● Peterborough Local Plan Further Draft ● Highway Asset Management Policy and Strategy ● Environment Capital Action Plan and Environment Capital Policy ● Green Infrastructure / Biodiversity Strategy Refresh	5 standard meetings covering 19 Substantive items – average 4 items per meeting plus the standing items of ● Forward Plan ● Monitoring of Recommendations ● Work programme. Additionally 2 Joint Scrutiny Budget Meetings plus one Call-in meeting **Policy / Plans / Consultation** ● Payment Strategy ● Local Plan Proposed submission ● Sports Strategy ● Trees & Woodland Strategy ● Peterborough Green Infrastructure And Biodiversity Supplementary Planning Document (SPD) ● PCC Biodiversity Strategy ● Peterborough Flood And Water Management Supplementary Planning Document (SPD) ● Developer Contributions Supplementary Planning Document (SPD) ● Minerals and Waste Local Plan	5 standard meetings covering 21 substantive items – average 4 items per meeting plus standing items of ● Forward Plan ● Monitoring of Recommendations ● Work programme. Additionally 3 Joint Scrutiny Budget Meetings plus one Call-in meeting. Two Task and Finish Groups have been set up for Air Quality and Fly Tipping which run in addition to the normal meetings **Policy / Plans / Consultation** Peterborough Statement of Community Involvement (SCI) Updated Regulation 123 list and Community Infrastructure Levy (CIL) Supporting Policies Active Lifestyles and Sports Strategy Minerals and Waste Local Plan – further Draft Council Asset Strategy Corporate Strategy

	● Proposed Submission Local Plan ● Active Lifestyles Strategy	● Acquisition / Asset Management Strategy	
Children and Education Lead Director – Wendi Ogle-Welbourn	5 standard meetings covering 20 substantive items – average 4 items per meeting plus standing items of ● Forward Plan ● Work programme. Additionally 1 Joint Scrutiny Budget Meetings	5 standard meetings covering 20 substantive items – average 4 items per meeting plus standing items of ● Forward Plan ● Monitoring of Recommendations ● Work programme. Additionally 2 Joint Scrutiny Budget Meetings	5 standard meetings covering 20 substantive items – average 4 items per meeting plus standing items of ● Forward Plan ● Monitoring of Recommendations ● Work programme. Additionally 3 Joint Scrutiny Budget Meetings
Adults and Communities Lead Director – Adrian Chapman	5 standard meetings covering 15 substantive items (4 of which came under the Crime and Disorder Scrutiny Committee) – average 3 items per meeting plus standing items of ● Forward Plan ● Work programme. One task and finish group to Review of the Management of Rough Sleepers Task and Finish Group Additionally 1 Joint Scrutiny Budget Meeting and One Call-in meeting	5 standard meetings covering 18 substantive items (4 of which came under the Crime and Disorder Scrutiny Committee) – average 3/4 items per meeting plus standing items of ● Forward Plan ● Monitoring of Recommendations ● Work programme. Additionally 2 Joint Scrutiny Budget Meetings	5 standard meetings covering 20 substantive items (4 of which came under the Crime and Disorder Scrutiny Committee) – average 4 items per meeting plus standing items of ● Forward Plan ● Monitoring of Recommendations ● Work programme. Additionally 3 Joint Scrutiny Budget Meetings

Health Scrutiny Committee Lead Director – Liz Robin	5 standard meetings covering 11 substantive items – average 2/3 items per meeting plus standing items of ● Forward Plan ● Work programme. Additionally 1 Joint Scrutiny Budget Meetings	5 standard meetings covering 16 substantive items – average 3 items per meeting plus standing items of ● Forward Plan ● Monitoring of Recommendations ● Work programme. Additionally 2 Joint Scrutiny Budget Meetings	5 standard meetings covering 17 substantive items – average 3 items per meeting plus standing items of ● Forward Plan ● Monitoring of Recommendations ● Work programme. Additionally 3 Joint Scrutiny Budget Meetings

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governance responsibility **democracy**
accountability transparency
policymakers governance **involveme**

The good scrutiny guide

overview guidance resource **agreem**
ucture **authority** commitment **maxim**
stakeholders solution experien

INTRODUCTION

This guide is intended to provide advice to councils, councillors and officers on the operation of overview and scrutiny; we also hope and expect that it will be of use to other stakeholders, including the public. It is written to complement the Government's statutory scrutiny guidance (published May 2019). Councils are obliged to "have regard to" this statutory guidance (the meaning of this phrase being provided on page 5 of the guidance itself). This guide, produced by CfPS, has no such formal status.

This guide updates and replaces a previous set of Practice Guides published by CfPS in 2014, and CfPS's original Good Scrutiny Guide from 2006 (published alongside the previous set of Government guidance on scrutiny from the same year).

The statutory guidance, and this guidance, reflects the "four principles" of good scrutiny developed by CfPS in 2003 and which remain vital and relevant today. These are that 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;

- Drive improvement in public services.

CfPS thinks that there are three further components of good scrutiny and good governance which support and reinforce these principles. These components are necessary in order for democracy at a local level to be participative; they are necessary for good scrutiny to thrive. These are:

- Accountability – an environment where responsibility for services and decisions is clear and where those holding responsibility can and are answerable for success and failure;

- Transparency – the publication, proactively, of information relating to services and decisions to allow local people, and others, to hold policymakers and decision-makers to account;

- Involvement – rules, principles and processes whereby a wide range of stakeholders (including elected representatives) can play active roles in holding to account, and influencing and directing the development of policy.

These principles and components rely on the presence of a strong and supportive political and organisational culture; one in which forensic and robust scrutiny can develop and thrive.

Applicability of this guide

This guide applies in England only. Its primary focus is the operation of overview and scrutiny under executive arrangements in local authorities. Scrutiny in combined authorities is covered in the guidance and is also covered in this guide, although significantly more advice can be found in the CfPS publication, "Overview and scrutiny in combined authorities: a plain English guide" (2017).

Scrutiny is committee system authorities operates on a discretionary basis. Readers will note that the guidance, and this guide's, frequent reference to council executives means that there are elements of both that are less relevant to committee system authorities, although the general principles around, in particular, organisational culture and the overall role of scrutiny are just as valid.

Sources of information

A full list of resources can be found in an appendix. Principal documents to read alongside this guide are:

- "Statutory guidance for overview and scrutiny in local and combined authorities" (MHCLG, 2019)
- "Overview and scrutiny in combined authorities: a plain English guide" (CfPS, 2017)
- "Pulling it all together: a guide to legislation covering scrutiny and governance in English local government" (CfPS, 2018)

The Centre for Public Scrutiny provides a free helpdesk resource for councils and councillors wishing to better understand and explore how to carry out scrutiny. We can provide advice on matters relating to the rules and procedures under which scrutiny operates, on notable practice and suggested ways to transact work, and can signpost to other organisations and resources.

CfPS cannot provide legal advice. While we can offer our view on matters which intersect with individual councils' constitutions and governance frameworks, on such matters the advice of the council's Monitoring Officer should be considered as final.

Other organisations also exist to provide advice to scrutiny and democratic services professionals. Lawyers in Local Government (LLG) and the Association of Democratic Services Officers (ADSO) are particular sources of professional support.

The Local Government Association's political group offices can provide advice and support to councillors as they carry out their work. CfPS works closely with national group offices to ensure that issues and concerns about scrutiny as they are experienced by members are understood and fed into our work.

Acknowledgements

CfPS would like to offer thanks to those members and officers who carried out a review of this document in draft form, and for the time taken to provide thoughts, comments and amendments on the draft. This guide is significantly better for their input – but of course any remaining errors and omissions remain the responsibility of the authors.

June 2019

CONTENTS

1   An overview of scrutiny

Effective scrutiny depends on two things –

- a recognition of the cultural requirements for scrutiny to succeed
- the extent to which a strong cultural commitment is owned by the council's leadership)

1.1   The importance of culture

The prevailing organisational culture, behaviours and attitudes of an authority will largely determine whether its scrutiny function succeeds or fails.

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.

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.

Statutory guidance on overview and scrutiny in local and combined authorities, paragraphs 7-9, p8

1.1.0.1   Taking the steps necessary to make scrutiny effective is the responsibility of the whole council and the business of all of scrutiny's stakeholders.

1.1.0.2   Scrutiny requires commitment in the form of action from local leaders. This involves a willingness to work with scrutiny as an equal partner – to engage early, to provide it with all relevant information and to take its recommendations seriously.

1.1.0.3   The executive has a duty to ensure that the way that it and its members act does not undermine and denigrate scrutiny; responsibility for a failing or ineffective scrutiny function very often rests as much if not more with the executive as it does with scrutiny members and their support officers.

1.1.0.4   This shared responsibility for ensuring that scrutiny works as well as it can means that a good scrutiny/executive relationships is one of the most critical criteria for success.

1.1.0.5   Where scrutiny is marginalised and dismissed by a council's leadership, it will be ineffective – creating a vicious cycle that those leaders will see as justification for their opinions. If those opinions do become widespread, that should be a clue to take urgent action. Scrutiny can and should be seen as a critical part of the governance and improvement landscape for local government. A failure to take advantage of the tools that it offers makes councils less resilient, less responsive to change and less able to manage their challenges – financial and otherwise.

1.1.0.6   Councils should be aware of the risk of a lack of organisational commitment presenting itself in "warm words" for scrutiny. In this more insidious situation, leaders say the right things about scrutiny but fail to follow up with action. This is more difficult to identify and hence, to resolve.

1.1.0.7   Different cultures can exist in the same authority – it is unlikely that there will be a uniform attitude and approach to scrutiny across the whole council. Relationships with a wider range

of stakeholders (see section 2) will reflect this asymmetry too. For scrutiny practitioners, there may be a job of work in identifying who its key partners are, where their motivations lie, and how closer working can be approached – just as there is a duty for those partners (particularly within the council) to step up to their own roles.

1.1.0.8   A positive working culture involves in particular an understanding of local politics. Scrutiny councillors are politicians and should be using their political insights, and the insights gathered through ward work and doorknocking, to influence and guide their work. However, party politics – expressed through scrutiny as an arbitrary opposition or promotion of a particular party line, and a lack of interest in discussion or consensus on that issue, does not have a place in scrutiny.

1.1.0.9   More information on the culture of scrutiny can be found in section 2, below.

1.1.1   Scrutiny, whistleblowing and complaints

1.1.1.1   The guidance notes the interface between scrutiny and whistleblowing.

> 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 this matter.
>
> *Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 11, p9: see also comments at paragraph 13, p11*

1.1.1.2   People's willingness to speak out about wrongdoing is central to a positive organisational culture – however, effective whistleblowing needs robust systems and clear oversight.

1.1.1.3   It is likely that scrutiny will have brought to its attention instances of suspected wrongdoing or poor practice. This may be by service users themselves, or by employees of the council and partners.

1.1.1.4   The first are general complaints and concerns about services which should form part of scrutiny's overall evidence gathering. While scrutiny has no role in investigating individual complaints, it can and should use the concerns of individuals as a spur to ask searching questions about whether those complaints are evidence of a wider issue. Alongside other partners in the wider governance landscape, scrutiny holds part of a collective responsibility here.

1.1.1.5   It is important to recognise that scrutiny is not a substitute for having, and following, proper processes for whistleblowing.

> The responsibilities and accountabilities of external agencies were not well defined, often resulting in "regulatory gaps" or failure to follow up warning signs.
>
> Organisations operated in silos, without consideration about the wider implications of their role, even guarding their territories on occasion.
>
> This situation was exacerbated by a lack of effective communication across the healthcare system in sharing information and concerns. Organisations relied on others to keep them informed rather than actively seeking and sharing intelligence.

At the heart of the failure was a lack of openness, transparency and candour in the information emanating from the Trust and over-reliance on that information by others. This was not helped by the constant reorganisation of NHS structures, often leading to a loss of corporate memory and misunderstandings about an organisation's functions and responsibilities. Information flow was generally poor.

The combination of these "regulatory gaps", lack of effective communication and constant reorganisation led to a systemic culture where organisations took inappropriate comfort from assurances given either by the Trust itself or from action taken by other regulatory organisations. As a result, organisations often failed to carry out sufficient scrutiny of information, instead treating these assurances as fulfilling their own, independent obligations.

Report of the Mid Staffordshire Hospital Trust Public Inquiry: Executive Summary Paragraph 1.114 p64

1.1.1.6   Whistleblowing is slightly different. Where a council employee suggests poor practice or maladministration, or worse, the council's formal whistleblowing processes may come into play. As with complaints, individual instances of whistleblowing should not be "investigated" by scrutiny – but they should be considered as serious, rare events, and members will obviously be interested in understanding how they are dealt with.

1.1.1.7   The council's Monitoring Officer is the ultimate arbiter of how these issues are dealt with. The council's whistleblowing systems will pass responsibility for the management of such issues to the MO and scrutiny should respect this.

1.2   Local government scrutiny's statutory functions

1.2.0.1   Scrutiny has a range of statutory functions. Some of these apply to all councils, but it two-tier areas different powers relate to counties and districts.

1.2.0.2   Scrutiny's statutory powers are the foundation for its work. They can and should be bolstered at local level through dialogue and agreement with scrutiny's stakeholders[1] . Scrutiny's statutory functions should not be taken and interpreted as providing limits for scrutiny's action. In fact the legislation states that scrutiny may look at any issues which affects "the area or the area's inhabitants", providing a broad freedom to act.

1.2.1   Powers in relation to councils: in general

1.2.1.1. Scrutiny can:

■   Require information from the council. Councillors sitting on scrutiny committees have broad information access rights which means that they can and should be able to have access to information even on matters exempt for reason of commercial confidentiality, and the other exemptions found in Schedule 12A of the Local Government Act 1972. More information on information rights can be found in section 4.1 below and at section 5 of the guidance.

■   Require attendance from council officers and councillors. Members of the executive invited to attend scrutiny committee meetings, and council officers issued with similar invitations, are expected to do so. While the law does not specify the seniority of officers who should be invited to give evidence, it will usually be most appropriate for senior officers to attend, even where questions are being asked about operational delivery. More information on engagement with councils officers and executive-side councillors can be found in section 2.1 below.

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[1] We explore scrutiny's stakeholders, and how they align with the council's stakeholders more generally, in section xxxx

- Require that the council provides responses to scrutiny's recommendations. Importantly, it is for scrutiny to determine the nature of the response. It is legitimate, for example, for scrutiny to require that a substantive response to each recommendation be made individually, with timescales for implementation; scrutiny can require that the executive do not response to recommendations simply by "noting" them. More information on recommendations and impact can be found in section 5 below.

1.2.1.2 Scrutiny committees also provide a mechanism to "call in" decisions made by a council's executive. This only applies where a decision has been made, but has not yet been implemented – a period of time which, as a matter of law, involves the passage of five clear working days.

1.2.2 Powers in relation to partners: in general

1.2.2.1

- On matters relating to health, the scrutiny function of a county or unitary authority has a formal role in evaluating whether local health bodies have properly consulted scrutiny when a substantial variation to local health services is proposed. Detailed guidance on the operation of health scrutiny can be found at https://www.gov.uk/government/publications/advice-to-local-authorities-on-scrutinising-health-services

- On matters relating to community safety, the scrutiny function of a shire district or unitary authority has a role in reviewing the work of the community safety partnership (CSP). Importantly, this does not confer a right to scrutinise the individual CSP partners on their wider work. Separate statutory guidance on these powers was published in 2009 and is still in force, but is no longer online.

- On matters relating to flood risk management. Scrutiny has general powers to oversee partners' work on flood risk. Until 2018 more detail was provided for by Regulations (http://www.legislation.gov.uk/uksi/2011/697/made). These no longer have effect (https://www.cfps.org.uk/flooding-scrutiny-regulations-no-longer-in-force/) but the general statutory powers remain.

- On other matters relating to a list of named partners. This list is set out at s104 of the Local Government and Public Involvement in Health Act 2007, which is still in force.

In 2014, Government produced guidance on health scrutiny: https://www.gov.uk/government/publications/advice-to-local-authorities-on-scrutinising-health-services

1.2.2.2 The differing nature of the powers set out above should not be used as a reason to refer to the legislation every time scrutiny wants to engage with a different partner, and should not be used as a reason why partners need to be scrutinised discretely. Section 2, below, provides more detail on the relationship between scrutiny's stakeholders.

1.2.2.3 The statutory guidance provides an "illustrative scenario" at Annex 3 which covers possible approaches to inviting an external organisation to appear before a committee.

1.3 Combined authority scrutiny statutory functions

1.3.0.1 Scrutiny in combined authorities operates using a similar statutory framework as local authority scrutiny. We touch further on this in section 3 on role and function.

1.3.0.2 CfPS has produced separate, detailed guidance on combined authority scrutiny which can be found at https://www.cfps.org.uk/wp-content/uploads/Overview-and-scrutiny-in-combined-authorities-a-plain-english-guide.pdf

2. Scrutiny's stakeholders

2.0.0.1 Scrutiny has a wide range of stakeholders – people with whom scrutiny works to carry out its work. Understanding the motivations and objectives of these stakeholders is crucial if scrutiny is to have influence. Some of these people will sit within the council – others outside it.

2.0.0.2 There is likely to be overlap between these groups. We have not "classified" them to indicate that each group of individuals and organisations needs to be dealt with in a particular way – but simply for clarity. The importance of these relationships is highlighted in the guidance.

> 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 Partnerships; and
>
> - Others with a stake and interest in the local area – large local employers, for example.
>
> *Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 52, p22*

2.0.0.3 Scrutiny's stakeholders in combined authorities are likely to be different; these issues are covered in more detail in the section on combined authorities, at 2.4 and 3.11

2.1 Managing relationships inside the authority

2.1.0.1 Some of the principal stakeholders for scrutiny inside the authority are as follows. These people's motivations will differ significantly – from role to role and from council to council. Managing these relationships can be challenging – which is why scrutiny needs champions amongst councillors and officers at the very top of the organisation in order to succeed:

- The executive – the senior political leadership of the council set the tone of how successfully scrutiny will be able to work, as we set out in section 1 and set out in section 2.1.1 in more detail below. The executive should act as a champion for scrutiny's work within and outside the organisation. In the case of combined authorities, this set of relationships will be lent additional complexity by the fact that members of the executive (the combined authority cabinet or Board) may come with different expectations and motivations;

- Senior Officer Leadership – the most senior officers need to have a clear sense of scrutiny's role, and the contribution they need to make towards scrutiny's effectiveness. The strength of the "golden triangle" – the relationship between the Head of Paid Service, the Monitoring Officer, and the s151 Officer – is particularly important here;

- Middle management – there will often be surprisingly little awareness or knowledge of scrutiny and its role amongst middle managers (those in tier 2 or tier 3 management roles).

- Backbench councillors generally – not all backbench councillors will be members of scrutiny committees; their motivations and perceptions of scrutiny and its role will differ. Some will possess vital insights about local people's experience of services delivered by the council and its partners, that scrutiny will need to be able to access and understand. For combined authorities, issues around backbench members will relate to the sustained engagement of scrutiny members and substitutes, bearing in mind in particular the challenges around assuring quoracy under those circumstances;

- Co-optees and others actively involved in the scrutiny process (eg as witnesses) – scrutiny may formally co-opt non-councillors to sit on committees, as discussed at section section 4.2.5.2; in some cases, statutory co-optees must be appointed. Maintaining the engagement of these people – and recognising the unique value they can bring to scrutiny committees, and task and finish groups, is vital;

- The authority's audit function – guidance from CIPFA used to say that councils' scrutiny and audit functions should be kept entirely separate. Now, it is understood that close links between the two functions is important – but audit does have a specific, formal role which has to be recognised as distinct from the work of scrutiny. Sharing of information about financial scrutiny and oversight will be important here;

- Area or community forums, where they exist - where councils have area governance structures they will be an important way for scrutiny to listen to and understand the concerns of local people – this is covered in more detail in section 2.3.1 below. While this is likely to be less of a feature for combined authorities, CA scrutiny members will still need to think about how they can assure themselves that they are gathering evidence so as to understand the voice and concerns of the public.

2.1.1 Practical issues relating to the executive / scrutiny relationship

2.1.1.1 The guidance suggests that authorities should consider drafting an "executive-scrutiny protocol". In CfPS's experience, the value in the production of such a document derives from the conversations that precede its agreement, rather than the document itself. As such there is no simple "off the peg" protocol that authority can assume they can just transpose and apply in their own place, although examples of the potential contents of such a protocol can be found in the guidance at Annex 1.

> 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.
>
> *Statutory guidance on overview and scrutiny in local and combined authorities, Annex 1, p27*

2.1.1.2 There are, however, some common themes and principles. There should be:

- A collective understanding of scrutiny's role within the council and the area – the specific niche which it fills and the value that it adds through occupation of that niche (see section 3, and the part of the guidance that mentions the need to communicate scrutiny's role and purpose to the wider authorities (paragraph 11, p10));

- Regular dialogue between scrutiny and the executive – informal and candid, to ensure that both have a clear sense of the other's work and priorities. Complete frankness may not be possible all the time but should always be the objective;

- Plans in place, owned jointly be scrutiny and the executive, to continuously improve scrutiny, in part by ensuring that the function gets the support and engagement it needs from across the area;

- An understanding that scrutiny is in charge of its own work programme and will occasionally do things with which the executive may disagree;

- An understanding that scrutiny is political, that it is driven by politicians whose political insights are a fundamental part of scrutiny's work, but is not a place for political point scoring as we mentioned in section 1;

- A relentless focus on impact – both in tightening up scrutiny's focus and work, and in ensuring that the way that the executive works with scrutiny recognising that impact can only come about with the active support of the executive.

2.1.1.3 The presence of a positive political and organisational culture will not prevent the emergence of difficulties, challenges and tensions about scrutiny and its work. Without such a culture, however, the resolution of these issues will be difficult to resolve.

2.1.1.4 Part of a positive culture is about scrutiny and the executive working together to develop solutions to these issues. Below we summarise some of these issues and some of the possible solutions.

- A feeling that scrutiny is being combative or "meddling" in areas where it is not needed. Members of the executive and senior officers might describe this as scrutiny being "political", or as members "misbehaving". Clarity on mutual roles and transparency over the way that the scrutiny work programme is developed and evidenced will help to address this.

- Disagreements about the way in which executive/scrutiny relationships should be managed. We noted the benefits of more informal meetings above, but some may raise concerns about informality, and suggest that transparency demands a different approach. What approach works best will depend on the political culture of the authority concerned, but more informality and more dialogue does not automatically mean worse scrutiny;

- The executive may disagree with the logic that underpins scrutiny's decisions about what issues will be subject to a scrutiny investigation. This suggests the need for clarity about how decisions about work programming are made, as we will go on to discuss in section 3.2. While the executive should not direct scrutiny's priorities, scrutiny work will need to reflect at least some of the executive's priorities in order to ensure that it is adding value.

- There can be disagreements about who attends scrutiny committee meetings, and when. Where invitations are submitted far enough in advance (and where the work programme makes future meeting agendas clear) this should be avoidable, but an unwillingness to attend may suggest more fundamental problems, which should be separately addressed;

- Disagreements about how and when information will be shared. This is discussed in more detail in section 4. In brief, information can be late, or provided in a way that makes it of little value – for example, where it is difficult for members to understand. Conversations about the purpose for which information is being requested will help to clarify scrutiny members' own requirements as well as to make those requirements clearer to officers.

2.1.1.5 Some of these features are highlighted for particular attention by the guidance in respect of councils led by a directly-elected Mayor (at paragraphs 12-13, p11).

2.1.1.6   Practical issues relating to the relationship between scrutiny/democratic services officers and executive-side officers are covered in section 6 on resources, below.

2.1.2   Party politics

2.1.2.1   Party politics should not express itself through scrutiny. That said, scrutiny is inherently "political" – scrutiny should be looking at high profile issues, issues of local political contention, issues on which people will hold strong views and which will inevitably involve some intersection with party politics.

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 mindset 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.

Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 11, p11

2.1.2.2   Scrutiny and democratic services officers need unique political awareness to understand and predict potential political flashpoints before they occur, and plan for them. The support of the Monitoring Officer and head of paid service is particularly necessary here – to provide officers with the support they need in what might be a fractious and febrile environment. A positive political culture is one that recognises that an expression of party politics in scrutiny will generally be inappropriate, but that councillors, as politicians, need to use their political skills and experience to carry out their work.

2.1.2.3   More information can be found at section 6.3.4

2.2   Managing relationships beyond the authority: professional partners

2.2.0.1   Relationship management in combined authorities is covered in detail in, ""Overview and scrutiny in combined authorities: a plain English guide" (CfPS, 2017)

2.2.0.2   In order to meet the needs of local people, councils work with a wide range of other organisations. There is no "council" service that is delivered without the involvement of partners in some form; scrutiny needs to understand this partnership dynamic, how the culture and practices of partners affect how the council works, and how lines of accountability between organisations active at local level might need to influence how scrutiny proactively engages with partners.

2.2.0.3   In working with and seeking to influence partners it can productive to think about how local people experience services, framing scrutiny's work with reference to those experiences, rather than trying to conduct "scrutiny of partners" as a separate and distinct kind of scrutiny work. This issue is explored more fully section 2.2.1 below.

2.2.0.4   The motivations and objectives of those beyond the council can be slightly more difficult to discern and act on. Scrutiny lacks formal powers in relation to many partners, which can make engagement challenging. Some of these partners include:

■   Trading companies, joint ventures, alternative delivery vehicles – increasingly, councils adopting more commercial and entrepreneurial approaches to service design and delivery are setting up new kinds of structures for that purpose. These might be wholly owned by the council, or together with other public or private sector bodies.

- Partners in these sorts of venture – other councils, or private sector bodies, might be the council's partners in these sorts of activity. Understanding what drives them and what scrutiny work might add value to their work will be productive. This may however be a challenge – these organisations are likely to have their own accountability and governance systems.

- Commissioned partners – councils may have commissioning frameworks which see elements of service delivery carried out by other partners. Such arrangements are often long term in nature and guided (if not specified in detail) by contract. These arrangements will be subject to a fair degree of internal oversight

- Contracted partners – organisations may contract with the council on a more traditional basis. It is more common now for contracts to have written into them provisions requiring that the contractor respond to scrutiny requests, but early engagement and dialogue will help them to understand scrutiny, its role, and how they can involve themselves in a way that provides them with real benefits

- Statutory partners – bodies like local NHS bodies, community safety partners and a range of other public bodies will work closely with the council to develop and deliver services to local people – we have outlined some of these relationships in section 1 above.

- Neighbouring councils and other scrutineers - we will cover the relationship with other scrutineers in the locality in the section below.

2.2.0.5 The guidance highlights the importance for scrutiny of being able to follow "the council pound", which has implications for work with contractors, commissioned partners, trading companies, joint ventures and other organisations.

Scrutiny committees will often have a keen interest in "following the council pound" – ie 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.

Statutory guidance on overview and scrutiny in local and combined authorities, p20

2.2.1 General themes relating to the scrutiny of partners and partnerships

2.2.1.1 In carrying out scrutiny work that involves partners, it can be tempting to look at individual partners, their duties, and responsibilities, separately. However, as we have noted above, this may not reflect the experiences of local people, or lead to scrutiny that will make a real impact.

2.2.1.2 For example, looking at the specific work of a local charity operating under a service level agreement (SLA) with the council to deliver a range of youth services will frame that subject with reference to the SLA and the perspective of the council in enforcing that agreement's delivery. Looking instead at the issue from the perspective of young people themselves - following them through the system and identifying the interactions they have with public, private and third sector bodies as they live their lives – helps us to identify the links and, potentially, the gaps between organisations. Scrutiny, as a function of the council benefiting from councillors' local insights, is uniquely placed to carry out this cross-cutting work.

2.2.1.3 This is really about "mainstreaming" a consideration of partners and partnership into everyday scrutiny work. In some cases, this may provoke scrutiny councillors to rethink how they conceive of scrutiny's role and focus (as we will discuss in section 3 below). It may also provoke a shift in structures. Some councils have "internal" and "external" scrutiny committees, for examples, which may be considered not especially fit for purpose if scrutiny wants to take a more citizen-focused approach to its work.

Wirral Council: Children's Services "Reality Checks"
(extract from "Scrutiny frontiers", (CfPS, 2019))

Following the inadequate Ofsted inspection of 2016, we considered possible approaches to gain a better picture of our business. Following this consultation, we developed a programme of Children's Services 'Reality Check' visits. Benefits of the reality checks include improved understanding of services for vulnerable children and families, enhancing engagement with partner organisations and aiding assessment of integrated health and care. The work also aligns with the children's services improvement plan developed as a result of Ofsted inspection and visits. The approach enables triangulation of evidence from different sources to ensure scrutiny receives a robust and comprehensive picture on which to base their recommendations. [...]

Recommendations made include improving pathway plans to ensure care leavers' voices are captured. We have addressed concerns regarding re-referral rates to social services, putting in place an action plan monitored through the Committee. We have identified concerns about staff communication and recommended co-location of staff across the borough and this has been implemented across children's services. Development of staff IT training has been endorsed and encouraged by scrutiny and agile working is now being introduced throughout the Local Authority. All recommendations were fully accepted by all agencies and are shared with the Cabinet Member and Local Safeguarding Children's Board. [...]

Reality check visits encourage a culture that allows us to gain assurance that children's services are providing the best outcomes for our children and young people. As recommendations and reports are made in partnership with the services visited, it has evolved into a collaborative approach.

Cllr Tom Usher, Chair, Children and Families OSC

2.2.1.4 Partners are likely not to be especially familiar with scrutiny and its work. There may be a degree of resistance to scrutiny; or a willingness to use scrutiny in ways that are unproductive – using scrutiny as an opportunity to "market" issues and solutions to councillors in ways that may cause frustration. Both issues will arise where there is a lack of clarity over scrutiny's role.

2.2.1.5 A focus on local people will make scrutiny an "easier sell" to those who might otherwise feel that their organisation's inner workings are about to be subjected to some forensic investigation. In thinking about early interactions with partners, scrutiny councillors will need to consider:

■ What exactly are your, and their, expectations? Misunderstandings about what overview and scrutiny is trying to achieve, and what other scrutineers are doing, can hinder the development of positive working relationships.

■ What are their own powers and lines of accountability? In hierarchical organisations or sectors (for example, where lines of accountability are seen as ultimately passing upwards to a Government Minister), people may feel that engaging with overview and scrutiny makes a formal commitment to being held to account by local government.

- What are the timing and resource implications for partners in engaging in this way? Some will need to be given not only a justification for engaging but an incentive for doing so – a commitment to improving services in a way that links closely to the other organisation's priorities.

2.2.2   Working with other scrutineers

2.2.2.1 Increasingly, identifying and working with other local scrutineers is an important part of securing an impact beyond the bounds of the authority, as discussed in 2.2.1 above. It is also important because:

- Local government and combined authority scrutiny operates with limited resources (see section 6.3). It is impossible for council scrutiny functions on their own to investigate and have consistent oversight over the services provided to local people;

- Local government business – the business of improving the lives of people in a given geographical area – involves a huge range of different partners, with different operational models and governance arrangements. Such arrangements should involve the sharing of scrutiny, alongside shared decision-making, in the interest of streamlining governance.

2.2.2.2 As we noted above, it is now generally accepted that a shared responsibility exists, across partners and partnerships, for ensuring that local people are being provided with the services they need.

2.2.2.3 Other scrutineers might include:

- Other tiers of government. On some issues, particularly large scale health service reconfigurations, it has become common for joint scrutiny committees to be established. In two-tier areas, links between district and county scrutiny are important – in combined authority areas, links between CA scrutiny (covered below at 2.4) and local authority scrutiny are important to recognise and get right;

- Neighbourhood and area structures established by the authority.

- External regulators and inspectors (Ofsted, Care Quality Commission and information from Ombudsman investigations can be an important source of insight for scrutiny).

- Those involved in providing support and guidance to the sector at national level. The Local Government Association, and membership organisations such as SOLACE and CIPFA, support councils and can provide important insight into local and national challenges. The National Audit Office does not scrutinise individual councils, but it does carry out thematic reviews into value for money in the sector which can present challenges and opportunities for change;

- Local Healthwatch, in respect of local NHS bodies (more detail on the role of Healthwatch in respect of health scrutiny can be found in https://www.cfps.org.uk/wp-content/uploads/Local-Healthwatchhealth-Roles-relationships-and-adding-value.pdf);

- Local community groups or advocacy organisations – a range of bodies acting locally may seek to hold the council and its partners to account.

- Local Enterprise Partnerships (LEPs). Although not conventional "scrutiny bodies", LEP structures provide a mechanism for local business to engage with, and hold to account, a range of partners on action in relation to local growth and local industrial strategies. In areas that have them, this will link closely to the role of combined authorities, as described above;

- Police and Crime Panels and other policing structures (including fire and rescue scrutiny), on which further guidance awaits publication at the time of writing (June 2019).

- Tenant scrutiny; in England, tenant scrutiny panels are part of the "co-regulatory" system of accountability. Tenant scrutiny sits alongside the role of Homes England and the Housing Ombudsman; panels, where they exist, are there to champion the interests of tenants and to hold social landlords to account on their behalf. More information can be obtained from TPAS;

- The press, and local bloggers, also have an important role in holding decision-makers to account – the opportunity to work with journalists should be taken, as well as ensuring that scrutiny is as open as possible with journalists as it carries out its work;

2.2.2.4 Working with other scrutineers could take many forms.

- Informal information sharing. It might prove useful to periodically share information about issues of mutual interest.

- Informal joint work. Two or more sets of scrutineers might identify a common area which deserves further research. Joint background work could be carried out to inform two separate pieces of research, which would have different focuses on account of the different organisations involved, but the pieces of work would be designed to dovetail together

- Formal joint work. Two sets of scrutineers might come together – perhaps as a joint task group, or on a committee onto which people from other scrutiny bodies are co-opted – to carry out an investigation together, leading to a combined report with recommendations for two or more separate organisations.

West Sussex: joint scrutiny arrangements

Arun, Chichester, Horsham and Mid Sussex District Councils, Crawley Borough Council and West Sussex County Council (WSCC) agreed in 2010/2011 to establish trial joint scrutiny arrangements, to enable them to work together on specific scrutiny projects. After a review in late 2012 it was agreed to make Joint Scrutiny a permanent arrangement. Worthing Borough and Adur District Councils decided not to take part in the formal arrangements at that stage but joined the group in November 2014. A Joint Scrutiny Steering Group oversees the arrangements and is made up of the Overview and Scrutiny Committee Chairmen of the participating councils. This Steering Group has met six times. The Group has also shared information and sought comments via virtual means.

Joint scrutiny in West Sussex has involved task and finish groups being carried out on a range of topics including housing arrangements for care leavers and community legal services. The standing joint arrangements make it possible to identify and carry out work of mutual interest but do not result in a resource intensive approach; the steering group has met physically only six times since the establishment of the arrangements.

2.2.2.5 Timing is critically important. Other scrutineers will need to be engaged early on, when a piece of work is being planned. Plenty of time will need to be given to ensure that they can secure clearance to work with you. Once you have started to develop a relationship, pursuing other pieces of work in the future is likely to be more straightforward. It may be that your relationship is such that you will develop some kind of informal agreement or protocol to define how you will work together in the future.

2.3 Managing relationships beyond the authority: the public

2.3.0.1 At combined authority level, the strategic nature of the CA's work may suggest that there is less of a need to work with the public; this may not be the case, and some of the opportunities for public facing work can be found in "Overview and scrutiny in combined authorities: a plain English guide" (CfPS, 2017)

2.3.0.2 At a more local level, the public are vital partners in scrutiny work. Public involvement goes beyond "consultation" or "engagement" in particular scrutiny reviews. Such traditional consultation is often framed in a way that meets members' needs or the council's needs, and may not provide the kind of insight and perspective that comes of giving local people a more meaningful role in the scrutiny process. Public input into scrutiny should be awkward and challenging for professionals and councillors alike – it should challenge our assumptions about how services are delivered on the ground, and about how people experience their lives in the communities we serve.

2.3.0.3 "The public" are not a single group; geographically and by topic, local people will organise themselves in a range of different ways. Broadly speaking, some of the key groups will include the following. These groups will all overlap:

■ Local people as citizens with a stake in local democracy. In carrying out scrutiny work it is important to remember that we should not think of local people just as "service users", or "customers" of the council – people who pay their council tax and get a service in return. The relationship is much more complex than that, and it starts with the public's role as citizens and their rights to challenge the council and its partners to understand and meet their needs better;

■ Local people as they experience "universal services". Visible, universal services – councils' environmental services and infrastructure responsibilities for the most part – may provoke people to organise on geographical lines, in neighbourhoods, communities and wards;

■ Local people as they experience support provided to meet their specific needs. Less universally visible services, like children's services and adult social care, will see their users engage with the council in different ways – through advocacy and support groups and potentially through the local third sector.

2.3.0.4 The presence of borough-wide, or area-specific, community and advocacy groups will make a difference to the way that scrutiny engages with civil society on a local level. It is probably not productive for scrutiny to try to "map" the various local pressure groups and organisations but having an understanding of the key individuals, groups and relationships will be important as scrutiny begins to consider topics and how they will intersect with the interests of local people.

2.3.1 Giving the public a stake in the scrutiny process

2.3.1.1 In a way, asking how to engage the public in scrutiny's work is the wrong question. Meaningful public engagement starts with ensuring that the public has a clear stake in scrutiny and its work programme, and that there is a transparent opportunity for the public to use a variety of means to influence that work programme. This form of engagement will make engaging the public in individual reviews easier. Promoting scrutiny's role to the wider public is an important duty which is covered in the guidance in some detail.

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.

Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 11, p11

It is likely that formal "consultation" with the public on the scrutiny work programme will be ineffective. Asking individual scrutiny member to have conversations with individuals and groups in their own local areas can work better. Insight 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.

Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 53, p21

2.3.1.2 Many councils formally, or informally, consult local people on the content of scrutiny's annual work programme, where such a work programme exists.

2.3.1.3 The outcomes of these exercises can vary. Talking to local people "about scrutiny" is often difficult – public understanding of how the scrutiny function operates is low to non-existent, and alternative approaches might be better. Some councils have found success by announcing that councillors want to understand what is important to local people, in order to think of ways to improve services based on their input – essentially, providing an explanation of scrutiny without any of the jargon.

2.3.1.4 By and large, however, public feedback from those not currently involved in scrutiny is likely to be low from these broad-brush attempts at engagement. Scrutiny officers, and members themselves, are likely to have little time to try to design the traditional kinds of public engagement exercises that might be thought necessary to make them work (exercises which, in fact, tend to have poor results anyway).

2.3.1.5 Local online discussion forums and blogs – and Facebook groups - can provide a useful place to engage in snapshot-style discussions with local people on issues that interest them – although councillors will of course be aware of the risks and shortcomings of engaging in this way, which can act as a lightning rod for people's personal concerns and complaints.

2.3.1.6 Of course, most important is the need to just listen. There will be plenty of discussions happening at local level amongst local people and within local groups about important issues. Listening to and understanding these conversations in the spaces they are happening is much easier now that they are more likely to be happening online but should not preclude physically getting out to where conversation is happening within and amongst local groups and organisations. Councillors will have direct conversations with local people about these needs – these should be fed in too.

2.3.1.7 When these views, opinions and experiences are drawn together, reflection and self-discipline will need to be exercised by councillors to determine which reflect pressing, genuine concerns, and which may not. This is not about focusing on the demands of the loudest people, but it is also about recognising that noisy members of the public whose behaviour and activities may exasperate councillors and council officers may have extremely good reasons for their campaigning, and deserve to be listened to and have action taken through scrutiny.

Devon: work programming

Co-ordination of the activities of Scrutiny Committees is undertaken by the Chairmen and Vice-Chairmen of Scrutiny Committees to avoid duplication of effort and to ensure that the resources of the Council are best directed to support the work of Scrutiny Committees. Before an issue is added to the work programme Members consider:

- Whether the issue is in the public interest

- Is there a change to National Policy?

- Does it affect people across Devon?

- Are there performance concerns?

- Is it a safety issue?

- Can scrutiny add value by looking at it?

- Is it ACTIVE ?

Tower Hamlets: review of scrutiny

As part of a wider review of scrutiny (see https://democracy.towerhamlets.gov.uk/mgConvert2PDF.aspx?ID=128813) the London Borough of Tower Hamlets has adopted a new approach to work programming, which follows the following stages:

- Mapping legislative and constitutional requirements;

- Horizon scanning by directorate (performance reports, inspections, risks);

- Reviewing issues identified by residents (complaints, member enquiries, FOI);

- Review of work programme from last year and any ongoing areas;

- Consult with scrutiny committee members, officers, partners and local residents;

- Prioritisations;

- Division of priorities between committees;

- Draft work programme agreed.

2.3.1.8   The important things to note – not only in the use of evidence for work programming but in the use of public views more generally - are that:

- No one source of evidence will provide a definitive picture of the issues likely to be important to local people;

- A "good enough" approach should be taken to the way that scrutiny seeks to collect public views – you will never achieve perfection, and it is better to have a partial picture (while recognising where flaws and gaps exist) than doing nothing at all;

- Conversations are often a better source of detailed information than lots of numerical data.

2.3.1.9   The section below on work programming provides broader context on how public views form a part of a wider programming process. The section on evidence-gathering provides more information on public engagement in individual scrutiny reviews.

2.3.2 Scrutiny's public visibility

2.3.2.1 Scrutiny is outward facing – an important strategic function of the council. Scrutineers should work closely with those involved in communications – another important strategic function – to think about how scrutiny's work can engage a wider audience in order to achieve the agreed objective and outcome.

2.3.2.2 Part of this is about ensuring that the basics are met – fundamentally all communication activity needs a clear objective and clarity around what outcome you are trying to achieve. Seeking to improve the profile of scrutiny for the sake of it will not work or justify the time spent.

2.3.2.3 Scrutiny needs a web presence (on the council's website) which articulates clearly scrutiny's role (see section 3) and links to evidence of scrutiny's recent impact. Committee papers should be available and easily searchable. Scrutiny – and scrutiny councillors - ought to have a social media presence (on which platforms will depend on the area and the council's broader corporate policies). We know that some councils have attempted to prevent scrutiny from social media activity; in our view such action is inappropriate as scrutiny has a need of an independent way of expressing itself to the wider public. Overall, scrutiny might wish to have a communications plan – setting out specific points in the year, in relation to specific issues or topics, where public outreach might be necessary, and thinking about how these can be organised. Communications, here, is not about just broadcasting what scrutiny is doing to a passive audience – it is about opening up opportunities for dialogue with the local community to hear their views and insights on specific issues.

2.4 Stakeholders for combined authority scrutiny

2.4.0.1 A very different set of stakeholders operate at regional, combined authority level.

- The Mayor. The Mayoral/scrutiny relationship is particularly important; the guidance mentions the importance of effective scrutiny in Mayoral systems. The Mayor has broad power given their direct election and powers conferred by the bespoke Orders establishing CAs; scrutiny's role is both to support and challenge the exercise of this power;

- CA Boards. Made up of leaders of constituent authorities, the CA Board may, in different places, play both an executive and a scrutiny role – holding the Mayor to account but working closely with that person to deliver collective priorities;

- The LEP. For many CA areas, the LEP will be a functional arm of the CA itself, although in areas where more than one LEP area currently overlaps with the CA, this will not be the case;

- The wider business community, who will engage both through the LEP and directly with the CA;

- Constituent and non-constituent councils. All local bodies (and some outside of the CA's functional area) will be impacted by CA decision-making. CA scrutiny can work with local authority to investigate these issues in more detail;

- The CA's officer corps. The CEO of the CA, and other senior officers, are important stakeholders – particularly as most CAs' officer corps is far smaller than that of most local authorities.

2.4.0.2 All combined authorities are different in governance terms, because of their bespoke devolution deals. This leads to differences in the identity of key stakeholders. For example, for most but not all CAs, transport providers will be a central partner; in some cases, policing and health partners will also be key stakeholders.

2.4.0.3 CfPS research has suggested that "local public accounts committees" could evolve from the current CA scrutiny model, reviewing and holding to account public spend across a whole

place. The CA geography has been suggested as a good one for this.

2.4.0.4 More information on combined authority scrutiny can be found at ""Overview and scrutiny in combined authorities: a plain English guide" (CfPS, 2017)

3. Role and priority

3.0.0.1 The role of scrutiny needs to be clarified and understood by scrutiny's stakeholders.

Authorities should take steps to ensure scrutiny has a clear role and focus within the organisation – ie, 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.

Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 11, p8

3.0.0.2 The guidance highlights the importance of role and focus. Many councils have sought to adopt different approaches to clarifying their role.

Devon: local government reorganisation

The Bournemouth, Christchurch and Poole Council, when in shadow form, needed to establish and operate a scrutiny function in preparation for the vesting of the new authority in May 2019.

The challenge of this process was to ensure that members of the shadow authority could effectively transact their role while scrutiny in the predecessor authorities continued.

Members decided to use the concept of risk as a "lens" through which to review and evaluate potential topics for the work programme. Doing so ensured that scrutiny retained focus, and that members were directed towards the kind of strategic issues which were critical to the establishment of strong, effective corporate systems in the shadow authority as vesting day approached.

3.1   Scrutiny's role overall

3.1.0.1 Clarifying what scrutiny "does" is difficult but necessary. It is difficult because it presents a significant cultural shift away from the approach that many councils have taken historically – that scrutiny exists to carry out a generalised oversight of the council and its partners, and that trying to do anything "less" would involve key issues falling between the gaps. Research published by CfPS and APSE in 2017 expands on this issue.

3.1.0.2 Resource constraints being what they are, an attempt to keep a general watching brief over everything in the local area is impossible. Not only that, adopting such vagueness for scrutiny's role increases the risk that scrutiny will duplicate the work done by others – by audit, by contract managers, by council directors, by partners, by the press and by others.

3.1.0.3 Instead, it is more productive for scrutiny to attempt to adopt a primary area of focus. This

role may be different from council to council – it will depend on the council's culture and its priorities.

3.1.0.4   We do not suggest that councils have an area of focus in a substantive sense (for example, that councils should focus on, say, children's services at the exclusion of other topics) – more that role be used as a "lens" through which scrutiny can focus its work on what can add most value (as demonstrated by the Devon example given above).

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 carried out generalised oversight across the wide range of issues experienced by local people, particularly in the context of partnership working [..]

Different overall roles could include having a focus on risk, the authority's finances, or on the way the authority works with its partners.

Applying this focus does not mean that certain subjects are off limits.

Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 49-51, p21

3.1.0.5   Scrutiny often ties in with decision making and to the development of major policies by the council. This makes sense, because it is only by influencing those policies that scrutiny will have an impact on the business of the council.

3.1.0.6   This section on these different forms of scrutiny focuses on the council, but as we have already noted scrutiny will want to have an impact across the wider area, and this will influence how it engages with the council's partners. Work programming is the way in which scrutiny members can reflectively decide on the relative priority of opportunities that present themselves, and the way in which they can decide on the timing of that scrutiny. This work all needs to be supported by a robust approach to the accessing and use of information, and by a clear understanding of the research methods available to scrutiny to carry out its work.

3.1.1   Scrutiny's role in Combined Authorities

3.1.1.1   Combined Authorities (CA) have particular roles to perform – roles which are potentially very different to how scrutiny operates in local government.

3.1.1.2   CAs are primarily strategic entities. They are systems integrators, working with a range of partners with long term goals in mind. CA's functions are currently focused on transport, infrastructure, investments and economic development. Potentially (like Greater Manchester) they have a developing focus on a far wider range of issues such as health and social care. These are all strategic issues where decisions have lead times which may be decades-long. Projects are likely to be especially complex, and governance reflects this.

3.1.1.3   Some CAs also, however, have highly operational roles – particularly in respect of transport provision.

3.1.1.4   This presents a real challenge, as it demands that councillors sitting on CA scrutiny committees conceive of different ways of working at CA to those with which they will be familiar locally, in a way that takes account of this mix of strategic and operational roles. For example, while it fits within the CA's duties, a scrutiny function that preoccupied itself with the positional of local bus stops would not be especially effective from a strategic point of view.

3.1.1.5   CfPS research has demonstrated that by and large CAs have struggled to come to terms with this very different role for scrutiny (https://www.cfps.org.uk/wp-content/uploads/2018-01-05-ca-scrutiny-report.pdf). We have in the past (https://www.cfps.org.uk/wp-content/uploads/Overview-and-scrutiny-in-combined-authorities-a-plain-english-guide.pdf) said that scrutiny in combined authorities should be seen as "light touch", reflecting the generally strategic nature of combined authority and the limited approach to governance that accompanies it. This is however not to say that combined authority scrutiny should not be forensic and robust; it is more a reflection of the strategic, rather than operational, nature of the issues that scrutiny will be looking at. This demands bringing a different kind of focus and approach to CA scrutiny.

3.1.1.6   A model of scrutiny which sees councillors coming together periodically to undertake "traditional" scrutiny – working through multiple reports in a meeting – is likely to be unfit for purpose in these circumstances.

3.2   Work programming

3.2.0.1   This section is particularly focused on the needs of local councils; more detailed information on work programming in CAs can be found at, ""Overview and scrutiny in combined authorities: a plain English guide" (CfPS, 2017). There is significant overlap in the core principles but also some key differences, reflecting scrutiny's strategic role in those authorities.

3.2.0.2   Effective work programming is the bedrock of an effective scrutiny function. Done well it can help lay the foundations for targeted, incisive and timely work on issues of local importance, where scrutiny can add value. Done badly, scrutiny can end up wasting time and resources on issues where the impact of any work done is likely to be minimal.

3.2.0.3   Once scrutiny's role is agreed, it becomes easier to decide what specific topics should be prioritised. Councils have a range of ways to set their work programme. In councils with multiple scrutiny committees, the individual committees might have separate work programmes, or there may be a single one for the whole function. Where multiple work programmes exist, it is necessary that they be co-ordinated to avoid duplication and imposing too great a burden on reporting officers.

3.2.0.3   Councils may adopt rolling work programmes, might prefer the predictability of an annual programme, or may have programmes that run across the entire electoral cycle.

3.2.0.4   The most common approach is to have an annual work programme but with enough flexibility to account for some shifts in priority and topic over the course of the year. It is best to consider work programming as a continuing exercise rather than a stop-start one.

3.2.0.5   A range of voices need to be heard and listened to as scrutiny plans its work. The stakeholders mentioned in section 2 are likely to have useful insights; the council's executive, in particular, needs to be kept involved. In a wider sense a range of other communication requirements need to be borne in mind:

■   Discussion and dialogue, informally, as the work programme is put together. Where councils have an annual scrutiny work programme (for the whole function, or for individual committees), these discussions can happen in January or February. They will involve officers, and members of the executive, informing scrutiny councillors and officers of interested and relevant forthcoming work where scrutiny might be able to add value, and may offer a useful sounding board for both the executive and scrutiny in considering where scrutiny's resources might be focused.

- Ensuring that information about current and prospective decisions is shared in a timely manner by the executive, meaning that scrutiny can build these plans into its work programme as necessary;

- Ongoing discussions around performance and finance issues which crop up in-year. This is covered in more detail in section 4.1.1.

3.2.0.6 This approach is predicated on having a work programme whose key elements are set in advance, but where the flexibility exists to add (and remove) items as needs demand.

3.2.0.7 Local authority governance expert Dr Dave McKenna has set out one approach to work programming which we have adopted here (with amendments). It has several elements:

- Information gathering / discovery (3.21 below)

- Prioritisation (3.22 below)

- Matching activities to topics (3.2.3 below)

3.2.0.8 Ongoing review of the work programme, as it delivered, is important to ensure its continued relevance.

3.2.1   Information gathering / discovery

3.2.1.1   In the section on engagement with the public we highlighted the role that local people can play in having a stake in the scrutiny process through active involvement in work programming.

3.2.1.2   Public views will go alongside a range of other sources of information to allow members to make an informed choice about what to look at. In reality, this means that scrutiny is likely to need to have a range of sources of information which it will periodically review. This is not the same as scrutiny trying to maintain a watching brief over everything – it is about knowing what information to access in order to know enough to understand on which issues scrutiny's focus is most needed.

3.2.1.3   These sources of information will differ from council to council but are likely to include some of the documentation to which we make reference in section 4.1.1.1. Councillors might want to select some key sources of information – from the council and elsewhere – and resolve that they will review it every quarter to give themselves the assurance that scrutiny is looking at the right issues, and in the right way. The use of a "digest" of information can help to ensure that the sheer quantity of information that councillors *could* look at is more manageable.

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.

Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 40, p18

3.2.1.4   We cover the use of information digests in more detail in section 4.1.1.

3.2.1.5   Effective information gathering needs to be complemented by members', and officers', ability to effectively and independently review information when they have it. Skills and capabilities are important here – as the guidance says, and as we go on to expand in section 6.2.1.

3.2.2   Prioritisation

3.2.2.1 With a range of information at its disposal, scrutiny has to decide how to direct its time most effectively. Critical here is the ability to reflect back on the overall role of scrutiny; topics naturally need to be framed in a way that relates closely to that role.

3.2.2.2 Beyond this, there are a variety of methods to manage prioritisation. Some councils use rigorous scoring systems and other forms of criteria – in part to make the process transparent and accountable. In others, councillors give themselves much more discretion to use their subjective judgement to decide on the relative priority of topics.

3.2.2.3 There is no single correct approach. With clarity of role, councillors are likely to find the task of prioritisation easier. That said, the prioritisation of work will mean that – by definition – some (councillors and officers alike) will find that topics they may wish to promote cannot be delivered.

3.2.2.4 There is a natural urge to find "ways around" this – by merging topics, or by prioritising loosely. Councils and councillors are likely to find that they need to resist these urges, so as to ensure that scrutiny can stay focused.

3.2.2.5 There are two other important factors in prioritisation:

■ Methods – the various tools and methods that scrutiny can employ to carry out its work. Choices here can influence prioritisation (and vice versa);

■ Timing – again, the right moment for scrutiny will differ from subject to subject, and will depend on the topic.

3.2.2.6 An effective scrutiny work programme is likely to incorporate a range of methods and timings. Both factors are likely to influence the relative priority of a given topic.

Members' rights to place items on the agenda

3.2.2.7 Most councils' constitutions protect the right of any member to place an item on a scrutiny committee agenda. In practice, this has to be mediated with reference to the work programme and the best use of committee resources. Democratic services officers will be best placed to speak to councillors about particular issues that they wish to place on agendas and work programmes, and to suggest the best ways of ensuring that those matters can be dealt with productively. It is, however, right that occasions will arise will the urgency or importance of a particular item brought to the committee's attention by one of its members will justify its inclusion.

The Councillor Call for Action (CCfA)

3.2.2.8 CCfA was introduced by legislation in 2007, with the intention of providing a mechanism for councillors to raise issues of importance to local people at a scrutiny committee, with a view to ensuring that these issues could be resolved.

3.2.2.9 Legislative provisions relating to CCfA remain in force and all councils have procedures and protocols in their standing orders defining its use. The Improvement and Development Agency (IDeA) published "best practice guidance" on CCfA in 2009; CfPS published a review of the operation of CCfA in autumn of that year which concluded that its use had been fairly minimal; since then it has continued to reduce in importance and can now be considered fairly peripheral. Other methods exist for scrutiny to understand a pressing local issue and bring local people, officers, members and partners round a table to resolve it.

3.2.3   Methods

3.2.3.1   Structurally speaking there are several ways to investigate a topic, some of which are explored in the guidance. These include a variety of different approaches to "scrutiny reviews", or "task and finish" reviews. These are more informal approaches to scrutiny, which involve a small group of councillors being commissioned by a formal committee to go and investigate a topic in detail, before reporting back with recommendations.

- By way of an agenda item at an ordinary committee meeting.

- By way of a "single issue" committee meeting. The opportunity might exist to call a range of witnesses, to hear from the public or to take and consider a wider range of evidence, with this all happening in the traditional environment of a formal scrutiny committee meeting. In some places these are known as "challenge panels".

- By way of a single issue meeting of another type. Members may find that the formality and structure of a typical committee meeting may not always be appropriate. A single issue meeting of another type allows for more meaningful public input, debate and discussion.

- By way of a short scrutiny review. A short, sharp review might take a few weeks, with members meeting two or three times over that period. It might be possible to transact such a review between the meetings of a formal committee (so, one meeting involves a review being commissioned, and the next sees the report of that review group coming back to committee for approval).

- By way of a more traditional, longer scrutiny review. Less common now are longer term, more detailed scrutiny reviews. These might take a few months;

- By way of a standing panel or (notionally) time-limited committee. When scrutiny is shadowing long-term working (for example, a major NHS reconfiguration) setting up a more open-ended arrangement may be appropriate.

3.2.3.1   We cover research methods in more detail in the section on scoping, below.

3.3   Timing: pre-decision scrutiny

3.3.0.1   Pre-decision scrutiny is where an authority's overview and scrutiny function looks at a planned decision before it is made by the executive. It is often seen as a contrast with post-decision scrutiny through the council's call-in arrangements, whereby the implementation of Executive decisions can be delayed.

3.3.0.2   Looking at decisions before they are made provides an important means to influence those decisions, and to improve them. It gives scrutineers an opportunity to challenge assumptions that may have been made as the decision was developed; it also gives them the chance to consider how decision-makers have considered what risks might arise from the implementation of the decision, and how those risks might be mitigated.

3.3.0.3   This can happen in two ways – shortly before a decision is made by the executive, usually two or three weeks before, or looking at a planned decision several months before it goes to the executive. Whatever the timing, the most important factor is to ensure that scrutiny is able to truly influence a decision and not just act as a rubber stamp, or carry out work that does not feed in to the decisions itself in an especially effective way.

3.3.1   Pre-decision scrutiny immediately before a decision is made

3.3.1.1 This is scrutiny undertaken two or three weeks before the decision is made by the executive or by an executive member. It is usually, but not always,based on the publication of the Forward Plan. This form of pre-decision scrutiny does not tend to be a feature of combined authorities, where the infrequency of committee meetings makes it unattractive.

Northampton: pre-decision scrutiny

The Leader and relevant Portfolio Holders attend the Overview and Scrutiny Committee to outline his aims and objectives for the year and issues likely to be in the Forward Plan.

From this the Overview and Scrutiny Committee considers areas where Overview and Scrutiny will contribute. The Overview and Scrutiny Officer includes any additional Forward Plan items, not considered by the above process, on the agenda of the Overview and Scrutiny Committee. The Overview and Scrutiny Committee determines which items it would like an input into, based on strategic impact, relevance to the Committee's work programme, public interest and/or financial implications, and Overview and Scrutiny Officer, on behalf of the Chair, advises the relevant Director of the Overview and Scrutiny Committee's request for predecision Scrutiny.

The Director will consider the request, in particular in respect of timings and will then provide a response to the Chair. The request for pre-decision Scrutiny also requires the agreement of the Leader and relevant Portfolio Holder.

The Director and Portfolio Holder will attend the meeting to discuss the issue and set out the nature of the matter under consideration, the key issues identified, any constraints, timescale for a decision, intended impact and a summary of progress to date.

The Overview and Scrutiny Committee discusses the issue and identifies any points it would like addressed in the final report. These are minuted. If necessary, and timescales allow, a further report may be requested by the Overview and Scrutiny Committee.

The report author drafts the final report for Cabinet, clearly identifying points raised by the Overview and Scrutiny Committee and demonstrating how they have been addressed. This will clearly demonstrate how Overview and Scrutiny is contributing to better cross-party decision-making. The Overview and Scrutiny Committee would not usually have an input at this stage, although they would retain the right to call-in the decision after it had been made.

Where it was felt appropriate for the Overview and Scrutiny Committee to consider a draft final report for Cabinet, it must be approved for release by the relevant Corporate Director, the Leader and the relevant Portfolio Holder, before submission to the Overview and Scrutiny Committee. The final report is submitted to Cabinet.

3.3.1.2 Under this approach, decisions might be brought to scrutiny as drafts of the final executive report; members will ask questions of the officers responsible (and Executive member) and make suggestions as necessary. Where scrutiny meetings convene less frequently than the executive (and particularly where some decisions may be more operational in nature) not every item on the Forward Plan may come to a committee for pre-scrutiny (and there is usually some filtering system which may reflect some of what we have to say about work programming in section 3.2).

3.3.1.3 This form of pre-decision scrutiny is particularly common in councils which operate "hybrid" governance arrangements. In these instances, key decisions are submitted to scrutiny committees (although under these arrangements they might have different names). The committee makes a recommendation to the executive, or to individual members of the

executive, that the decision should be approved (or not). This recommendation is basically rubber-stamped by the executive.

3.3.1.4 Pre-decision scrutiny carried out immediately before a decision is made will demand a different approach – perhaps focused on a hearing at a committee meeting which asks key questions around the decision's implementation, risks and measures of success – the last of these is likely to be particularly important for post-decision scrutiny, as we set out in section section 3.4.1.1.

3.3.1.5 For these meetings, questions which delve into the fundamentals of the decision and which bring up radically different options to those which are being proposed are unlikely to be useful or productive. Scrutiny, when making these recommendations, can find itself ignored – potentially precipitating a later call-in. These kinds of debates lend themselves far better to the longer-term work we've described above.

3.3.1.6 Pre-decision arrangements based on the Forward Plan rely on the accuracy and quality of that Plan to work properly.

3.3.2 Pre-decision scrutiny some time before the decision.

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.

Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 11, p9

3.3.2.2 For example, a scrutiny chair may be aware that the authority plans, in nine months, to agree a new housing strategy or review a partnership or contract arrangement which is due for renewal in the near future. He or she can plan the committee's work programme to look at some or all of the key elements of that strategy as they are being considered – key pieces of evidence (such as proposed housing targets), emerging priorities (dealing with shortages in social housing), financial implications (budgets to be spent on maintenance) and the extent to which the authority is engaging with key stakeholders (by speaking to tenants and leaseholders). It is important to ensure that this work aligns with the work being undertaken by the executive in developing the final decision. This is the only way that you can be sure that the work will ultimately have value.

3.3.2.3 This kind of scrutiny may well be in-depth. To be carried out properly it will need more time and resources to be allocated to it. As such, it may make sense to reserve its use to major decisions and significant strategic matters. It will also require a commitment to openness by the executive, along the lines we set out in section 2.1.1.

3.3.2.4 There are several tangible benefits to this form of scrutiny:

■ Challenging assumptions and making evidence-gathering more robust. Scrutiny can gather its own evidence to contribute towards the decision-making process, and can triangulate evidence being used by the council against that held by other partners and stakeholders. It can consult those directly affected by the decision impartially and independently. It 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. Several months before a decision is made, the ultimate outcome – in terms of substantive targets – will probably not have been finalised. Scrutiny can

help to impartially develop challenging but realistic target that will be focused on outcomes rather the outputs, and which will be more difficult to "game".

- 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 members and, by extension, the public (see below). This should ensure that the final decision takes account of such expectations and may reduce the risk of call-in or political disagreements which will hinder the decision's ultimate implementation.

- Engaging with and satisfying the public. Around the country scrutiny has, in recent years, significantly enhanced its capabilities in engaging with the public. This expertise can be brought to bear in helping the council to understand local needs, with this engagement being led by councillors who approach this discussion with no vested interest or stake in the final decision.

3.3.2.5 The amount of time devoted to the work will depend on the extent to which it is considered to be a priority by scrutiny councillors. The usual principles around adding value, ensuring impact, prioritisation and work programming will apply.

3.3.2.6 In all other respects, pre-decision scrutiny should not differ from other kinds of scrutiny investigations.

3.4   Timing: post-decision scrutiny

3.4.0.1 There are two obvious forms of post-decision scrutiny – call-in (where a decision which has been made, but which has not yet been implemented, has that implementation delayed) and post-decision review of performance and finance information, which might take place six months or a year after a decision is made.

3.4.1   Post-decision review

3.4.1.1 The post-decision review of how a decision has been implemented forms part of the way that scrutiny more generally reviews and oversees services and support offered to local people.

3.4.1.2 Some of this will be expressed through review of performance, finance and other management information. Comparison with the set objectives and expected outcomes of a decision will give a sense of whether those objectives were realistic and whether a decision was "successful".

3.4.1.3 This requires that decisions, and council objectives, should have some defined measures of success. Ensuring that this happens – that officers and members of the executive clearly understand the impact that decisions and changes in policy will have – can form an element of the pre-decision scrutiny processes that we describe above in section 3.3.

3.4.1.4 Because of the volume of key decisions being made and implemented, scrutiny will need to exercise discrimination in how it carries out this kind of post-decision review. It is likely that the same kind of escalation methods that we describe elsewhere can be applied here.

3.4.2   Call-in

3.4.2.1 Call-in provides a mechanism for councillors to intervene when they feel that a decision being made by the executive needs to be revisited (or possibly changed). It should, however, be regarded as a measure that is only needed in exceptional circumstances, rather than day-to-day. It sits in the context of a range of other tools at scrutiny's disposal to influence decision-making.

3.4.2.2 The law says that scrutiny has a power to review or scrutinise decisions made but not implemented by the executive, which includes a power to recommend that the decision be

reconsidered by the person who made it. Statutory guidance exists to govern how councils carry out call-in work.

3.4.2.3 Generally only "key decisions" made by the authority are subject to call-in, although councils may decide in their constitutions to expand the scope of their call-in powers to allow other decisions to be scrutinised. Key decisions will for the most part be decisions made by members of the executive as individuals (where a power for individual members of the executive to make decisions is delegated from the the executive) or by the executive as a whole. However, guidance states that "it may be appropriate for key decisions made by officers to be subject to individual call-in".

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.

Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 11, p10

3.4.2.4 The current definition for key decisions derives, in England, from legislation. Councils have used this to derive their own local definitions. Generally speaking, this will consist of:

- A financial threshold – so decisions with financial implications over £100,000, £200,000 or £500,000 might be key decisions, for example;

- A geographic threshold – so key decisions must affect two or more wards.

3.4.2.5 Key decisions must be notified publicly. Since 2012, councils in England have been obliged to give 28 days notice of planned key decisions (with provision for a shorter timescale in the case of urgency). This notice is usually provided by way of a "schedule of key decisions", sometimes referred to as a Forward Plan.

Who can exercise call-in powers?

3.4.2.6 Different councils have established a range of requirements for a call-in to be valid.

- **Eden:** a decision may be called in by three members of the council in respect of an executive decision;

- Kingston: a committee system authority which has a system of "community call in" whereby 100 "interested" people (an interested person being someone who lives, works or studies in the borough) or 9 councillors can call a decision in: https://moderngov.kingston.gov.uk/mgCommitteeDetails.aspx?ID=347;

- Southwark: a decision may be called in by three members of the overview and scrutiny committee: http://moderngov.southwark.gov.uk/documents/s53426/Call-in%20Procedure.pdf

3.4.2.7 In some authorities, the requirements on who can and cannot exercise a call-in acts as a "de facto" bar to call-in being exercised at all. For example, a council's constitution may require that three councillors on a given committee must request a call-in where the maximum number of opposition councillors on any committee is two, or may require that the chair of a committee "sign off" a call-in request, when all of those chairs are members of the majority party.

How does the process work?

3.4.2.8 The call-in process differs from authority to authority, but generally follows the following form:

- Members and the public are notified of the planned decision 28 days before it is made;

- The decision is submitted to the decision-maker; this submission, made by an officer, is sometimes placed on public deposit at this point;

- The decision is made by the decision-maker, who in the case of an executive decision may be a Cabinet member or the whole Executive;

- Notification is sent to the chair of the relevant overview and scrutiny committee (and sometimes to a wider group of members) that the decision has been made, usually within two days of the decision being made, advising of the timescale for the exercise of the call-in powers. There are usually five clear working days between the notification and the implementation of the decision. The implementation of the decision is essentially automatic, and no further notification needs to be given before it goes into effect;

- A request for a call-in is made, in accordance with the council's local rules of procedure. The Monitoring Officer may determine that a request is invalid – for example if it does not have the correct number of signatures;

- If a valid request for a call-in is received, a meeting of the relevant overview and scrutiny committee is convened. There is usually a time limit for this;

- The meeting takes place. The committee takes evidence and decides on what action to take. They may agree that the decision may be implemented, or they may recommend that it be changed, or that it be withdrawn entirely;

- The executive responds. An executive meeting will be convened to decide how to formally respond to scrutiny's recommendations. If the executive decides to continue to implement, there is no further right of delay. If it decides to withdraw the decision and place it back on the Forward Plan subject to resubmission at a later date, on this subsequent occasion councillors will still have the right to request a call-in.

What will happen at the meeting?

3.4.2.9 Different councils take different approaches to their management of call-in meetings. Many have protocols to define how call-ins will be carried out.

3.4.2.10 Call-ins can be discussed at an ordinary committee meeting, but given the timescales involved it is more common for a special meeting to be called. It is usual for the Executive member and the chief officer for the service involved to be invited to give evidence. However, it is at the discretion of the Chair how the meeting is run, and he/she may invite others to give evidence. This might include other council officers, members of the public directly affected by the decision or representatives of partner organisations. 3.4.2.11

There will also be variance in the information provided to members in advance of the meeting. Often, councils make the decision notice and the report underpinning the decision available. It is not common for wider evidence-gathering activities to be undertaken – there is usually no time to do so. While timing will be a significant constraint, ensuring that the panel have access to a carefully selected amount of relevant information, and early discussion between the chair and other members of the panel, will help to manage the session better.

3.4.2.12 At the end of the meeting, two approaches can be taken to reach a conclusion:

- The Chair and the committee can withdraw briefly to consider their recommendations in private. This can be a useful approach if the Chair feels that the committee might want to make narrative recommendations other than that the decision should or should not be implemented;

- A vote can be taken immediately to decide whether the committee wish to recommend that the decision should be implemented or not.

3.4.2.13 Opinion about the general value of call-in is very mixed across councillors and officers around the country. Views have been expressed that it is too open to "abuse" for "party political reasons", although a call-in driven by party politics could still be perfectly valid and reasonable. Councils with strong pre-decision scrutiny may consider call-in to be less vital.

4. Using evidence and gaining expertise

4.0.0.1 There is a lot of evidence and information available that scrutiny can and should apply to its work. Scrutiny should always be informed by evidence. However, evidence will always be subjected to competing interpretations – influenced by the subjective perspectives of those interpreting it, and by the way it is "triangulated" with other sources of information.

4.0.0.2 The task of scrutiny lies in understanding what evidence does and doesn't tell us about how local people experience the support that councils and their partners provide; it is about teasing truths out of these perspectives and building policy solutions to match.

4.0.0.3 There will always be challenges attached to this work. In brief, these include:

- Challenges in getting hold of information in the first place. Councillors sitting on scrutiny committees have enhanced information rights, under Regulations – including some rights to access information which might be classified as commercially confidential. Particular challenges, however, can apply when trying to access information held by partners (which we address in section 4.1.2, and which the guidance covers in paragraph 45 onwards).

- Being buried in a morass of information, and feeling that scrutiny has to look at everything – which is covered in section 4.1

- Not duplicating work carried out by others. The executive, senior officers and others will also be overseeing services and intervening to bring about improvements where necessary.

4.1 Keeping a watching brief

4.1.0.1 In commenting on work programming, role and prioritisation we noted the importance of maintaining a watching brief on the local area, and how local people experience – and influence – the services delivered to them by public bodies and others. The guidance makes specific reference to members' ability to access a digest of information about the area.

4.1.0.2   This feeds directly into work programming, as evidence and information allows scrutiny to make informed judgements on what it should be looking at.

4.1.0.3   There are a large number of sources of information to which scrutiny has access.

4.1.1   Principal sources of information: from within the council

4.1.1.1   Where councils undertake pre-decision scrutiny in particular (see section 3.3.0.1 above) the Forward Plan (or "schedule of key decisions") will be a crucial document. Other key sources of corporate information might include:

■   The Council Plan – will take different forms but should clear set-out the priorities and outcomes the council (and possibly with partners) is seeking to achieve for the place. This will be supported by supporting strategies (partnership, departmental, cross-organisational. These should be based on background evidence, which you should also be able to access;

■   Partnership plans and strategies. Partnerships – like Community Safety Partnerships and Local Enterprise Partnership will have plans and strategies to direct their work. There should be background evidence for these documents too;

■   The council's overall budget and policy framework;

■   The medium term financial strategy (MTFS), which sets out a rolling three year picture of the future of the council's finances;

■   Quarterly performance reports. Departments of the council and their partners will normally produce quarterly scorecards and reports which will provide a snapshot of current performance;

■   Quarterly finance figures. These will explain how the council is spending according to projections, and will give a good idea of unexpected expenditure, and issues which may lead to overspends and underspends at the end of the year;

■   Risk registers. The council should have a clear idea of what the risks are in the implementation of major policies, and in the ordinary day-to-day delivery of services. Analysis of risk registers on an ongoing basis will mean that scrutiny can understand what the impacts might be if risks are likely to occur, and what steps can be taken to mitigate. The council's internal audit function also has a role to play in overseeing the management of risk;

■   Complaints digests/information. Looking at complaints against the council in general (ie, not analysing specific, individual complaints, but looking at major themes and issues) may give a good idea about where problems might lie

■   Internal improvement plans. From time to time the authority will identify problems or issues with its own services. This may be as a result of internal reviews – either carried out by the council's own officers or by external consultants – and may result in operational action plans to bring about improvements.

■   External improvement plans and activities. The LGA carries out corporate improvement work with councils including corporate peer challenges – reports from these might be useful. Formal inspection of some council services are carried out by bodies like Ofsted and CQC.

■   The Council's own research and insight. To support the development of departmental, council or partnership programmes, councils will carry out research and analysis – sometimes procured from external organisations.

■   Information from benchmarking clubs. Many councils voluntarily share performance information with others to help with improvement and mutual learning; CIPFA provides some

of this support, as does the LGA. Many also share information more widely using the LG Inform system (http://lginform.local.gov.uk/).

- Information from ombudsman investigations.

4.1.1.2 Less formal, but no less useful, forms of information are available corporately which will help you to do your work.

- Feedback from consultations / residents panels. The council will periodically consult with local people on major decisions; the council may also organise a residents' panel, which it will survey for their opinions on key local issues;

- Feedback from frontline staff. There will be formal, or informal, ways for middle and senior managers to get feedback from frontline staff about the service they deliver. Getting hold of this information can be valuable for scrutiny.

4.1.2 Principal sources of information: from elsewhere

4.1.2.1 Beyond the council, information can be accessed from a range of sources. Partners will hold management information of the type mentioned in 4.1.1 above. The public will also have insights into local issues. Regular reference to public debate and discussions – wherever they happen – ought to be a feature of scrutiny's "watching brief". In section 4.4 on the voice of the public, we mention the proactive use of social media and monitoring of things like Facebook groups.

4.1.2.2 The guidance makes reference to steps that authorities can take in attempting to access information held by partners (paragraph 46, p19 onwards)

4.1.3 An information digest

4.1.3.1 The way that members use information needs careful thought. In many councils, a number of the sources of information we have highlighted in sections 4.1.1 and 4.1.2 would be reported to committee on a regular basis as a matter of course. This is not especially productive. Reporting information to note, or for general comment, is not especially productive for two main reasons:

1. It makes triangulation between evidence sources more challenging, and hence makes it less likely that information will be used as a source of evidence for other scrutiny work.

2. By the time such data reaches committee, it is likely already to be out of date. This is particularly the case where data is reported to committees which meet quarterly.

4.1.3.2 For this reason we suggest that, instead of using committee as a clearing house for this information, members instead receive it more regularly, and informally, by way of an information digest, as highlighted in the guidance at paragraph 40. It is more useful to think of these various different kinds of corporate evidence sources as background information, to which scrutiny members have regular access, and which they can use to drive and inform their wider work.

4.1.3.3 Having a digest of information, to which members have regular access, can help to manage both this issue, and the risk of councillors becoming bombarded with a morass of data which they cannot work through quickly and easily. What this digest contains would depend on scrutiny's overall role. For some, performance, finance and risk data might form the core of such a digest. For some, the net will go wider. The critical thing is to use this information to identify those issues which may require further in-depth investigation.

4.1.3.4 In addition, there may be information available in online management information systems, updated in real time by officers. The benefit that this brings is that it allows members to look at raw data, making their own links between performance issues, and identifying connections

(based on their unique perspective as elected representatives, and given the detailed knowledge they will have of their wards) which officers may have missed. However, this relies on members having the confidence and skills to access and use this information, and also on ways in which to feed members' views through the scrutiny process itself.

4.1.3.5 Encouraging members to access the same management information as senior officers means that they can independently decide which issues they think are sufficiently important to raise at scrutiny. An approach based exclusively on officer reports in effect makes this judgment one for officers alone.

4.1.4 Triangulation

4.1.4.1 Using evidence effectively means triangulating it. This 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).

4.1.4.2 For example, you might triangulate customer complaints data 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 judgments 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.

4.2.4.3 Triangulating evidence in this way is not a complex science but there are a number of issues to consider in doing so:

■ How different sources of evidence will be weighed – not all evidence and information is of equal value. Some kind of complex, quasi-scientific weighing exercise is probably not required, but having a general sense of what should be afforded more attention, and less, is necessary;

■ How much evidence is needed is order to come up with an accurate picture. There may be a tendency to seek out more and more information in order to establish the most "comprehensive" picture possible, but this may be resource intensive and add little to the evidence gathering process. Officers and members should discuss between them the most appropriate balance. The suggestion of an information digest, in section 4.1.3, is an attempt to manage this challenge.

4.2 Understanding enough to scope reviews

4.2.0.1 One of the principal challenges for any scrutineer is gaining a swift understanding of a topic being investigated. This is particular the case when a review, or inquiry, is being scoped (or planned).

4.2.0.2 Done properly scoping is a managed, swift process of initial research and design. But it can quickly become a process of detailed substantive research itself, and it can easily be unfocused and unproductive. Getting "up to speed" on a complex topic – enough to be able to tease out the right issues in the right way, and enough to be prepared to make recommendations and deliver outcomes which will make a real difference – is difficult.

4.2.0.3 There are two elements to this – members need to understand the strategic context (4.2.2) in which their work sits and the local issues (4.2.3) that make the issue particularly pertinent to residents. Some of this will have been sketched out during the work programming process, but scoping provides an opportunity to dig further into the issues and better understand them.

4.2.0.4 A necessary prerequisite is both of these elements is member ownership – members having

the confidence and ability to understand the strategic context and local implications. This relates to councillors' skills and capabilities, which we cover in section 6.2.1

4.2.1   A process for scoping

4.2.1.1   Unless planned properly scoping can be a lengthy exercise. A good scope sets out:

- The topic of the review, and an explanation for why the topic is being framed in the way it is – including a reference back to scrutiny's overall role;

- The objectives of the review and its expected impacts and outcomes;

- The strategic context;

- The overall method (and why it's the right method for this topic at this time);

- The key individuals and groups involved, and how they will be involved;

- Other key sources of research which will be used, how they will be analysed, by whom and when;

- The timescale for the review – when meetings will happen, where, and who will be involved;

- A communications plan relating to all the above;

- A statement of the resources which will be necessary to deliver the above. We cover resources in more detail in section 6.3.

4.2.2   Member ownership

4.2.2.1   Members direct and own the scrutiny process, and this goes for scoping as well. In some councils scoping is primarily led by officers, who will carry out background research and deliver a scope to members for approval; the need for member ownership demands a more proactive approach from councillors.

4.2.2.2   Scoping will involve the selection of members to undertake a review. In general:

- 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 members 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 (and even the chair) need not be drawn exclusively from the group's parent committee – any member can be nominated to participate;

- Decision-making in the group (deciding on the wording of a final report, 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.

4.2.3   Getting to grips with the strategic context

4.2.3.1   Councillors and the officers supporting a review need to start by understanding the strategic context within which the council operates. This is about:

- National policy. Understanding the constraints within which the council and its partners

operate is important; this can also, for certain subjects, incorporate academic research (with which a technical adviser might be able to help) and research from local government thinktanks;

■ The council's position amongst its partnerships, and the collaborative context. Across the "place", professionals beyond the council will work together to deliver services and manage issues that affect local people;

■ The strategic, governing documents that direct the council's action. Some of this information is highlighted in 4.1.1 above – departmental or corporate plans that provide a framework for the council's activity in a given area.

Sources of information on national policy

There will be professional associations, think tanks and other bodies who will carry out research and hold information on substantive policy issues.

There are particular organisations who can be a particularly useful source of information on matters relating to local government and local services in general. These are:

■ The Local Government Association (LGA). The LGA is the membership body for local councils in England and carries out policy and best practice research on a range of issues. The LGA has a research and information team specifically tasked with gathering data on local government activity and performance, and operates a system called LG Inform which can provide comparative data on key service metrics.

■ The Chartered Institute of Public Finance and Accountancy (CIPFA). CIPFA is a membership body for public sector finance professionals. All s151 officers and many other local government finance professionals are members. Councils can also hold institutional membership of a large range of subscription-based advisory networks, which provide additional support, research and support on local finance issues. CIPFA also provides "nearest neighbour" benchmarking services, and a range of other data and analytics services, for its members.

■ The Society of Local Authority Chief Executives (SOLACE) is a membership body for senior local government leaders. It carries out policy research and makes comment on a range of local government policy and improvement matters.

■ The Local Government Information Unit (LGiU) and the New Local Government Network (NLGN) are membership bodies to which individual councils may subscribe. They provide briefings on emerging areas of policy and detailed research on a range of matters relating to local services.

■ Localis, IPPR, Demos, IFS and Reform are a selection of think tanks who occasionally or regularly carry out research on matters relating to local government.

■ The Institute for Government carries out research on the machinery of national government and the civil service which may be useful in understanding how national policy which affects local issues is developed and implemented.

■ Parliamentary resources – select committee reports, House of Commons Library research briefings, research carried out by the National Audit Office and so on;

In reading research carried out by think tanks it is worth reflecting on the political affiliation and funding arrangements of the organisation in question. Some thinktanks avowedly approach public policy issues from a particular political standpoint. Some have opaque funding arrangements which could be seen as casting doubt on the independence of their research. Triangulation of this research with other information is therefore important.

CfPS provides a helpdesk function for councils and councillors on matters relating to scrutiny. We can signpost you to further resources and information that might be helpful as you scope and design reviews.

4.2.3.2 Strategy may seem esoteric but it is vital in ensuring that recommendations – when they come – are couched in practicality. Strategic challenges may also provide a barrier to the effective implementation on policy – a critical matter for scrutiny.

4.2.3.3 The effectiveness of strategy can be evaluated using a variety of mechanisms:

- SWOT analysis – considering the strengths, weaknesses, opportunities and threats relating to the council (and its partners') approach to an issue and seeing if this is reflected in strategy;

- Testing / triangulating it against the strategies and plans of other partners, to identify alignments and areas of divergence;

- Triangulating it against the views of local people (see 4.2.3).

4.2.4   Understanding the issues on the ground: user-centred design

4.2.4.1 How local people are affected by the issue under study will have an influence over how a review is scoped.

4.2.4.1 This is primarily an issue of framing. Some of the most powerful scrutiny is that which is carried out on the basis of local people's experiences – and which is framed accordingly. This means that the topic is not being looked at from the same, institutional perspective that council officers may be used to – raising the opportunity to effect real change.

4.2.4.2 Getting an understanding of this perspective is not necessarily difficult. It may be that advocacy groups, and other groups (such as community groups) who have a representative role of sorts can be engaged with in planning – for example, tenants and residents associations. Some of these people could take an active part in the review itself by way of technical advice or co-option (see section 4.2.4). Service users will be an extremely useful source of information and introductions can be effected, or mediated, through service departments – or directly through local groups. Scrutineers will get a partial view of the issues through these individual conversations but these personal testimonies can serve to bring a topic alive and suggest opportunities for more detailed research.

4.2.4.3 Sharing power within the scrutiny process with local people – through providing them with a voice in scoping, and through co-designing work which is centred on their needs and driven by their aspirations – can be a powerful way of demonstrating scrutiny's sincerity in understanding local people. It can particularly help to demonstrate good faith to marginalised individuals or groups who might otherwise be suspicious or cynical about councillors' intentions in wanting to work with them.

4.2.4.4 Such approaches can be resource intensive. They will not be appropriate, or necessary, in all cases.

4.2.5   Technical advice and co-option

4.2.5.1 Many councils appoint co-optees – members of the public with a particular expertise or interest – onto review groups. Appointment of co-optees in this way tends to be more effective than their appointment to sit on a committee, because a task group is not open-ended and has a defined purpose, enabling individuals to be chosen for a specific purpose. Some councils maintain a "co-optee pool" of local experts for this purpose.

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.

Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 35, p16

Kirklees: volunteer co-option

Kirklees Councils carries out periodic recruitment exercises for volunteer co-optees. Co-optees sit on scrutiny panels and participate in the production of scrutiny reports.

4.2.5.2 The selection of co-optees is a delicate exercise. People need to be involved who have a specialism and expertise, but not people who might be closed-minded, or who would seek to push a particular viewpoint to councillors irrespective of the evidence gathered. People might be involved as co-optees where they add to the diversity of the review group, bringing insights and perspectives that councillors, on their own, cannot.

4.2.5.3 Technical advice can also be secured. A technical adviser provides support to a review group from an officer perspective, rather than sitting as a member of the group itself. Sometimes the line between "technical adviser" and "co-optee" can be rather blurred, which is why it is important to set out expectations and roles beforehand.

4.2.5.4 Information on statutory co-option (in the case of education co-optees, who must be appointed to certain scrutiny committees further to legislation) can be found at section xxxxx.

4.3   Gathering evidence to support reviews

4.3.0.1 Evidence to support scrutiny reviews is likely to come from a wide variety of sources.- many will be those highlighted in sections 4.1.1 and 4.1.2 above.

4.3.0.2 The guidance covers evidence sessions, and suggests ways to prepare and manage these sessions. It emphasises that the principles around evidence gathering apply equally to individual agenda items as to longer scrutiny reviews.

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.

Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 59, p25

4.3.0.3 Scrutiny can also gather evidence by

- Holding focus groups or workshops or survey users of a service or people affected by a particular issue. It may be that these workshops and groups can be designed and facilitated by local people themselves – local people are likely to have ideas about gathering evidence from their peers which may well be more sophisticated than those of professional officers. We cover this in more detail in section 4.4;

- Going on site visits (a good opportunity to understand issues "in situ");

- Chairing discussions amongst experts – a "roundtable" exercise, bringing together local experts, can be an action-focused way of gathering evidence;

- In-depth review of written evidence and information – this may come from a variety of different sources, which should have been identified through the scoping exercise.

Further resources on gathering information from the public and other external sources can be found at section 4.4.3

4.3.1   Scope creep

4.3.1.1   As evidence is gathered it may provoke thought about issues which might not have been considered during the scoping exercise. It can encourage scrutineers to begin to depart from the scope – pursuing issues which may not have been properly envisaged.

4.3.1.2   Good scoping should limit the risk of this happening, but if it does the following questions might be borne in mind:

- Does the change in scope fundamentally change the nature of the work? A substantial shift in topic and objective is likely to be difficult to justify unless there were significant flaws in the scoping process;

- Would a change in methods still deliver the objectives anticipated – or deliver those objectives better? This may be justified – but again, good scoping can avoid method deficiencies;

- If the change is driven by political needs, what confidence do we have those issues will not continue once a change is made? Political difficulties can lead to work being frustrated.

4.3.1.3   By rights, a substantive non-trivial change to the scope will require reference back to the committee commissioning the work. Such proposals for changes should be recognised and the formal steps for change should be adhered to, in order to ensure accountability to the public body which has initiated the work in the first place.

4.4   The voice of the public

4.4.0.1   Listening to and giving voice to the public is central to scrutiny's effectiveness. In section 2.3.1 we talked about giving the public an active stake in the scrutiny process – this section goes into more detail about what this might look like in practice.

4.4.1   The public's needs

4.4.1.1   "The public" is not a monolithic group whose members can all be "engaged" in the same way. The various models and methods discussed in this section have to be thought about, and deployed, in the context of local people's specific needs – as individuals, and as part of groups.

4.4.1.2   Some people may feel comfortable with formal, public meetings. Some may find these events highly alienating. Some people may face barriers in attending meetings, formal or not – not wanting to share their views in a public setting, caring responsibilities, language difficulties, difficulties with physical accessibility or simply a lack of confidence or disengagement from the political process which makes them disinclined to get involved.

4.4.1.3   People may feel that their personal experiences and testimony will be belittled by "professionals" and "experts" in whom they have limited trust, particularly if they have had poor experiences in the past.

4.4.1.4   Planning the engagement of people with these, and other, complex needs is not about somehow dumbing down the approach to scrutiny to make it more "accessible" in the views of officers and councillors. Members of the public can understand the nuances of the trade-offs that the council has to make in how it plans and delivers services, and can bring a significant degree of sophistication to any topic by speaking about their personal experiences in a way that is self-aware and reflective. They need to be trusted to be ceded the space, and the power, to speak on their own terms – councils, councillors and officers need the humility to listen and understand.

4.4.1.5   This suggests public involvement in the design and selection of the various methods that exist for "public involvement". It may increase the effort required in the short term but it is likely to pay off.

4.4.2   Public attendance at scrutiny meetings

4.4.2.1   Scrutiny meetings can often be poorly attended by members of the public, although agenda items on particularly contentious topics can result in more people attending. Where this happens, it may need to be anticipated and logistical steps put in place to handle it – how large numbers of attendees will be physically accommodated, ensuring that the venue is accessible (including possibly choosing a venue other than the usual council offices).

4.4.2.2   By law, the council is obliged to make appropriate space available for the public to attend and observe, and it goes without saying that meeting rooms should be laid out with this in mind. Setups involving councillors and other participants sitting around a conference table with a large space in the middle of it, while a makeshift "public gallery" is formed of a half dozen chairs crammed into the corner of the room, is unlikely to present an especially welcoming environment, even if it does satisfy legal requirements.

4.4.2.3   Where people sit makes an important difference to public understanding of the scrutiny role. Who chairs the meeting, who the committee members are, who the officers are (and what their roles are) and who else may be in attendance may not be obvious to observers. Nameplates will help.

4.4.2.4   Research exists on the variety of ways that exist for rooms to be laid out.

Dr Dave McKenna has carried out research on effective room layouts for local government meetings, some outcomes of which can be found at https://medium.com/local-democracy/how-to-design-the-perfect-council-committee-meeting-with-lego-63c919872d81

4.4.2.5   Filming and recording is permitted in council meetings (Government guidance can be found at https://www.gov.uk/government/publications/open-and-accountable-local-government-plain-english-guide); facilities have to be provided to ensure that those filming can do so in a way that makes their work easier. People attending public, formal meetings can have no expectation

of privacy and so cannot stop filming or recording happening; if topics or witnesses require particular sensitivity it is best considered how evidence might be taken in a different way – through use of Part II or by convening meetings in a different way.

4.4.2.6 Many councils also webcast, and webcasting can bring a committee's work to a wider audience. Councillors and others may want to comment on social media when a meeting is under way – council may want to live-tweet meetings.

4.4.2.7 Councils differ significantly in how they "manage" the input of the public at meetings. For formal committee meetings, the norm is to allow no public input whatsoever. Some councils have a defined timeslot for public questions, but this is for questions to be put to the committee, rather than to council decision-makers. The public can end up leaving such meetings frustrated and disengaged, as committee members are often ill-equipped to answer substantive questions. It is probably more worthwhile to take a more targeted approach. "Formal" spaces like this are often a poor place for the voice of the public to express itself in an unmediated form.

4.4.3   Other public meetings, and meetings involving the public

4.4.3.1 More informal public meetings – specifically designed to incorporate and involve the public – can be more welcoming to local people than formal committee meetings. A more open and flexible environment allows people to talk about their issues and concerns in a way that suits them, rather than suiting the formal requirements of the council.

4.4.3.2 Public meetings can still feel "owned" by the council. With the best of intentions it can be possible to "design" a public meeting with the objectives of a scrutiny review foremost in the mind, to "manage" contributions and to channel contributions in a way that makes the event feel safer and more predictable for those in charge, but frustrating for members of the public themselves, who may feel that the way that the meeting is organised and structured doesn't make it a "public" meeting at all.

4.4.3.3 Public meetings may be appropriate for discussion of universal services (visible services, such as those relating to the environment, culture and so on). Where other services – social care, children's services – are under discussion, their use can be more challenging. However, the opportunity for people affected by those services to share their testimony and experiences can be valuable and cathartic. Likely participants should therefore be engaged at the planning stage so they can direct how such meetings are managed.

4.4.4   More "informal" evidence gathering

4.4.4.1 A wealth of material exists online about the various other approaches that can yield results, rather than just large meetings. More traditional approaches – surveys, focus groups – can still be useful if properly designed.

A range of resources on engaging, involving and empowering local people can be found at:

- The LGA's website: https://www.local.gov.uk/topics/devolution/engaging-citizens-devolution/how-can-local-government-engage-communities

5. Making and proving impact

■ The charity Involve, whose guide "Public engagement: not just about the public" is a useful primer: https://www.involve.org.uk/sites/default/files/field/attachemnt/Public-engagement-not-just-about-the-public.pdf

5.0.0.1 Scrutiny's purpose is to have an impact and this guidance outlines the many different elements involved in securing success. Key to this are two elements:

■ Making effective, high quality recommendations;

■ Understanding how those recommendations make a difference to local people's lives.

5.0.0.2 Both issues reflect back on scrutiny's role, and how it prioritises its work. Vagueness in those areas means that scrutiny is more or less guaranteed to be of low impact and effect.

5.1   Recommendations

5.1.0.1 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.

5.1.0.2 The guidance emphasises that the process for the development of recommendations should be iterative, and that it should be led by scrutiny members – the guidance also sets out a three stage iteration process for the refinement of recommendations.

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

Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 66, p26

5.1.0.3 We should note that it is not common for councils to describe their drafting approach in the way described above. It is quite common, for example, for steps i) and ii) to be conjoined. Most will follow a process that broadly reflects it even where it might be managed and structured slightly differently.

5.1.0.4 Scrutiny's engagement in an issue should always be with recommendations in mind. Inquiriing into an issue formally only to "note" it is not an effective use of time or resources.

5.1.0.5 The likelihood of making a recommendation that will "stick" will influence the decision of whether to put that issue on the work programme.

5.1.0.6 Ultimately, this is underpinned by having a clear idea about the return on investment of the work you are undertaking. CfPS has developed a model for establishing the return on investment of scrutiny work which starts with effective topic selection (including effective prioritisation of topics), and moving through the way in which the public and wider

stakeholders are engaged in designing the review, to the end result of producing a piece of work with clear, measurable and meaningful outcomes. More information can be found at https://www.cfps.org.uk/wp-content/uploads/cfps___social_return_on_investment.pdf

5.1.0.7 The report drafting process is a member-driven process – but drafting itself is likely to be carried out by officers. To manage this, the guidance suggests a three stage process that is intended to put members in the driving seat.

5.1.1 Recommendations – the "heads of report"

5.1.1.1 While few councils use a "heads of report" stage for their work, the guidance suggests it, and it is common practice in Parliament.

5.1.1.2 The "heads of report" are the key findings that will be used to formulate recommendations. They will incorporate key sources of evidence; the heads will also identify points of contention and how they might be resolved.

5.1.1.3 The heads of report will also set out the areas in which recommendations might be made, and in a broad sense what those recommendations might be.

5.1.1.4 The purpose of this document is to ensure member ownership of the overall findings and recommendations before significant work has been done to flesh out a report.

5.1.2 Recommendations – draft report

5.1.2.1 This is the first stage at which recommendations themselves are likely to be developed.

5.1.2.2 There is no single "best" approach to making recommendations. What they look like will differ from topic to topic and from council to council, However, there are some basic general principles.

- Recommendations should have a clear focus on outcomes "on the ground". They should focus on a measurable change in a service, which you can use to establish the return on investment of scrutiny's input. For example, a specific increase in resident satisfaction, a reduction in housing rent arrears, a reduction in the number of instances of anti-social behaviour in a town centre, and so on. You will be looking to identify the "payback" from scrutiny's work – who benefits, and when? This will require you to make some assumptions about the past, present and future, but the more evidence you have the easier this will be;

- Recommendations should be evidence-based, specific and realistic enough to be implemented. Many of the other points we make below are implicit in this central requirement.

- Recommendations should be addressed to a specific person or group. Where responsibility for delivering a recommendation's outcome is unclear, it makes it less likely that it will be implemented;

- Recommendations should engage with financial realities – for example, where a recommendation involves additional expenditure, it may increase the force of the recommendation if funding sources can be recognised. However, it should not be required for scrutiny to fully cost all of its recommendations; this is an issue for the executive. Return on investment might be a useful tool;

- Recommendations should be developed in partnership. You should be prepared to speak to the executive, to senior officers and to partners about recommendations in draft, before they have been agreed. Provided it is accepted that the decision as to what recommendations are submitted remains at the absolute discretion of scrutiny councillors, such discussions can help to ensure that recommendations are more robust and realistic.

5.1.2.3 Open-ended recommendations, where acceptance does not actually commit decision-makers to further action, should be avoided. For example, recommendations beginning, "The executive should consider…" or "The executive should investigate further…"

5.1.2.4 At this stage, once councillors have agreed a draft report the recommendations can be shared with the executive, and others to whom those recommendations are addressed. This should be to check factual accuracy rather than to invite substantive comment. The executive may wish to provide advice on how recommendations can be drafted and refined to maximise their impact, but the decision how to proceed should always rest with scrutiny.

5.1.2.5 Ensuring impact from scrutiny work hinges on making recommendations which are accepted by the executive, and which go on to be implemented. This will involve liaison and dialogue over work being carried out, and recommendations being prepared. The drafting stage is likely to be the best opportunity for this to happen – before formal signoff of a report and when changes can still be made which increase the opportunity for impact to happen. Formally, liaison will be between the relevant executive member (or possibly the Leader) and the relevant scrutiny chair, but in practice it may sit in the context of ongoing discussions between the relevant Head of Service/chief officer and the scrutiny officer responsible for the work.

5.1.2.6 It does not mean that the executive and scrutiny need to operate "hand in glove". But liaison will need to happen, and it will include:

For scrutiny reviews

- Ensuring that the executive's viewpoint is fully understood and reflected in scrutiny review reports;

- Sharing key findings with the executive before scrutiny reports are prepared;

- Talking to the executive about likely recommendations will be framed and drafted (and possibly sharing them in draft);

- Liaising with the executive over how success in implementing recommendations will be judged (and agreeing timescales).

For committee meetings

- When members of the executive and/or senior officers are asked to attend, being clear what the aims and objectives are of the session (including clarity over the content of any reports and presentations);

- Discussion beforehand over who should attend to give evidence;

- Trying to discuss beforehand what recommendations the committee might make on the day, and how the executive might respond to them.

5.1.2.7 These issues are addressed in more detail in the section on impact, section 6 below.

5.1.3 Recommendations – final report and the executive response

> Recommendations should be evidence based and SMART, ie specific, measurable, achievable, relevant and timed. Where appropriate, committees may wish to consider sharing [recommendations] in draft with interested parties.
>
> Committees should bear in mind that often six to eight recommendations are sufficient to enable the authority to focus its responses, although their may be specific circumstances in which more are appropriate.
>
> *Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 67-68, p26*

5.1.3.1 The review may have gathered a significant amount of evidence and it is probably necessary that this should be published in some form – but the report itself should focus on the outcomes that scrutiny wants to see, with evidence presented to support those conclusions.

5.1.3.2 The council - Generally recommendations should be addressed to members of the executive or the executive as a whole; where scrutiny operates in a committee system authority it will be to the relevant committee, and in a mayoral authority it will be to the executive Mayor.

5.1.3.3 Recommendations addressed to the council should relate directly to matters on which they can take direct action, either individually or in partnership with others. Recommendations should not be made that require the council to "lobby" others (including central Government). Where this might be thought necessary scrutiny should take the necessary steps to submit a recommendation directly to the proposed subject of such lobbying.

5.1.3.4 The council's partners - Where a "partner" (under the terms of the 2007 Act) is being asked to respond to a recommendation, scrutiny should speak to the relevant organisation to find out:

- To whom the recommendation should be addressed;

- Whether there are business planning issues of which scrutiny should be aware that require the recommendation to be framed in a certain way (even if the partner has agreed to the terms of the recommendation).

Responses

5.1.3.5 The executive has to respond to recommendations within two months of them being made. It is usual that after agreement at a scrutiny committee, recommendations are submitted to the executive. It is not unrealistic to expect that a substantive response will be provided at this stage, but practice will vary from council to council.

5.1.3.6 The position with scrutiny's recommendations to partners can be more complicated. Partners are, in general, not obliged to respond, but prior liaison will make the risk of this happening less likely.

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

- A clear commitment to delivering the measure of success (see above) within the timescale set out;

- A commitment to be held to account on that delivery in six months or a year's time (see below);

- Where it is not proposed that a recommendation be accepted, the provision of detailed, substantive reasons why not.

5.1.3.8 It may be that arrangements for responses to recommendations forms part of an executive-scrtuiny protocol.

5.1.4 Monitoring recommendations

5.1.4.1 The monitoring of recommendations can easily become an industry. Where recommendations are effectively drafted and sufficiently clear, the executive should be able to collect data that clearly demonstrates whether a recommendation has or has not been successfully implemented.

5.1.4.2 At some point, you have to stop monitoring recommendations. Usually this will be after six months or a year. Continued oversight on the issue in question then reverts to the standard "watching brief" that scrutiny holds over all services (see section xxx).

5.1.4.3 It should not be necessary to bring recommendation monitoring to committee. However, where recommendations have not been implemented, it may be appropriate to hold the Executive Member to account in a public forum to understand why not.

5.2 Demonstrating impact more generally, and improving scrutiny itself

5.2.0.1 Demonstrating impact is about being prepared to understand scrutiny's effectiveness, and to improve it where necessary.

> The prevailing organisational culture, behaviours and attitudes of an authority will largely determine whether its scrutiny function succeeds or fails. [...]
>
> Creating a strong organisational culture supports scrutiny work that can add real value [...] 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 and relevance.
>
> *Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 7, 9, p8*

5.2.0.2 It's not possible to set out a definitive description of what good scrutiny work looks like, but we can give some examples of it. There are some common factors:

- Good scrutiny tackles issues of direct relevance to local people;

- Good scrutiny tackles issues where, through the unique perspective of elected members, it can add the most value;

- Good scrutiny is informed by high quality evidence;

- Good scrutiny is about talking to a wide range of people, drawing them together and building consensus;

- Good scrutiny is about challenging the accepted ways of doing things and acting as a champion for developing a culture of improvement in the local area.

5.2.0.3 Generally speaking, work that does all of most of these things is likely to be having a positive impact.

5.2.0.4 Being able to demonstrate your impact is a multi-stage process.

1. Firstly, you need to develop ways to establish what impact your work has currently;

2. Then, you have to identify ways to maintain or improve that level of impact – being aware of the need to work with others to do so;

3.   Finally, you need to implement those improvements.

5.2.0.5 CfPS's "self-evaluation framework" can assist in this task - https://www.cfps.org.uk/wp-content/uploads/CfPS-Scrutiny-Evaluation-v2-SINGLE-PAGES.pdf

The **scrutiny self-evaluation framework** is a tool that officers and members, even those with little previous knowledge or understanding of scrutiny and scrutiny good practice, can use to evaluate their approach. It provides a member-led mechanism for understanding practice, and putting in place realistic actions to improve.

5.2.0.6 For authorities which feel that they would benefit from external assurance for their scrutiny function, CfPS also offers a "scrutiny improvement review" (SIR). The SIR is designed to expand on the themes in the SEF, and engages fully with the themes of culture, role and responsibility highlighted in the guidance. It is overseen and carried out by CfPS staff and expert consultants.

Scrutiny improvement review (SIR)

The SIR is designed to complement and build on the SEF. Its method is looser and more flexible as it is carried out by external CfPS experts to focus on those specific issues identified by local officers and members. More information can be found at www.cfps.org.uk/sir

5.2.1   Establishing what impact your work has currently

5.2.1.1 This can be difficult. We have set out some of the challenges and issues in a blogseries published in 2017. Some of the principal issues are:

■   The act of scrutiny is itself of value – shining a light onto policy making and decision-making can itself lead to improvements in the quality of decision-making without you being aware that these have occurred. Deciding what things you do and don't look at involves an element of risk, too – at the beginning of a piece of work its final impact can be difficult to discern. But the more planning you do at the outset, the more confidence you can have that the work you do will make a difference.

■   It is difficult to establish when something might have happened anyway, and when it happened because a scrutiny recommendation/investigation made it happen. In a number of instances the fact of a forthcoming scrutiny investigation will lead officers to review their own outcomes, systems and processes, and make changes as a result – this is "scrutiny having an impact" but is often something you'll only realise during informal discussions with the officers in question;

■   Success in scrutiny depends on more than the assiduity and skill of the scrutineers involved. There can be a number of highly motivated scrutiny councillors, supported by some effective officers, carrying out high-quality work – but with a defensive executive and partners and obstructive senior officers, impact may be minimal;

5.2.1.2 Ways around these challenges may include:

■   Looking at recommendations you make, and whether they are accepted and implemented

■   Having a broader performance management system for scrutiny. Some councils have a performance scorecard for the scrutiny function. Care should be taken in the development of "KPIs for scrutiny", as measurement of processes rather than outcomes can lead to perverse

outcomes. Furthermore, the complex nature of the way that scrutiny makes an impact on the ground may make the use of KPIs less appropriate.

- Speaking to people inside, and outside, the council about work you've previously carried out. Going back and speaking to council managers, frontline staff and service users about work you've previously undertaken can often give you tangible examples of scrutiny's impact in a way that more formal management updates can't. Importantly, such discussions will help to disaggregate what might have happened anyway from the changes that scrutiny has been instrumental in bringing out – in effect, the things that would not have happened but for scrutiny's involvement.

- Looking at return on investment. The return on investment model can be a powerful one in establishing the "added value" that scrutiny brings to a topic.

5.2.2 Identifying and implementing ways to enhance impact

5.2.2.1 Once you have established what impact your work currently has, you can set out to enhance that impact. Conversations between members and officers, and others, will help to deliver change. The CfPS scrutiny self-evaluation framework provides more detail on these measures and reference our review support.

5.2.2.2 Any measures to change or augment the operation of overview and scrutiny should be led by scrutiny members themselves. It is not the role of the council's leadership or senior officers to unilaterally change scrutiny's methods of operation – although it is their responsibility to ensure that the structures and systems are in place to permit effective scrutiny to happen. In addition, the implementation of changes to scrutiny will require executive (and partner) buy-in. Positive change will usually require decision-makers to change their behaviour and attitudes towards scrutiny. This will be more important than any structural changes which might be agreed on. There needs to be a recognition that there is a collective responsibility to make scrutiny work.

5.2.2.3 Being able to articulate scrutiny's "value added" is important for a number of reasons – not least to justify the commitment of resources to the function, but also to contribute to the development of a culture where scrutiny is welcomed and encouraged (see section 1).

5.2.3 Securing agreement in a political environment

5.2.3.1 The process of enhancing scrutiny's impact (often carried out via a review of the scrutiny process) must be seen as a conversation between the executive and the scrutiny function. Scrutiny members should lead, in defining the function and their expectations of it, but the executive must work to ensure that it is doing all that it can to ensure that effective scrutiny can be carried out. This requires openness on the part of the executive, and a responsibility on all involved to be constructive and candid when considering scrutiny's impact on individual services, and the area as a whole. Political circumstances can make such candid discussions difficult, and as such, political factors need to be recognised and managed.

5.2.4 Accountability to full Council

5.2.4.1 In many authorities, the constitution (usually in the scrutiny rules of procedure) will incorporate a requirement for scrutiny to report periodically to full Council – often by way of an annual report, tabled by the chair of scrutiny (where applicable) and supported by the statutory scrutiny officer (again, where applicable).

5.2.4.2 Scrutiny is not, strictly speaking, "accountable" to full Council for its activities. The business of scrutiny is for scrutiny members to determine, so full Council has no role in (for example) determining the work programme or "clearing" or otherwise ratifying recommendations.

5.2.4.3 The relationship, and reporting process, should recognise this, but should also recognise that full Council still holds an interest in the work that scrutiny carries out.

5.2.4.4 Annual reports can provide, to full Council, this information and the assurance that scrutiny's work is effective and impactful. Annual reports vary significantly from council to council. For some they are narrative descriptions of scrutiny's activity, prepared specifically for full Council and drafted principally for readers internal to the council. In other places the opportunity is taken to use the annual reporting process to highlight where scrutiny has been able to make an impact, and/or as part of wider work to publicise scrutiny to the wider community. Which approach is taken depends on the role of scrutiny within the authority.

5.2.4.5 In additional to the submission of annual reports, individual scrutiny reports can be submitted to full Council.

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.

Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 11, p10

6.   Committee structure, chairing and resourcing

6.0.0.1 There is no "right approach" to the structure of scrutiny committees. Some councils have a single one, others have many. Equally, there is no one right approach to chairing (including opposition chairing) or any agreement about what "adequate" resourcing of scrutiny looks like.

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.

Ultimately it is up to each authority to decide on the resource ir provides, but every authority should recognise that creating and sustaining an effective scrutiny function requires them to allocate resources to it.

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 cary out the scrutiny function (both members and officers).

Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 15-17, p13

103

6.1 Structures for scrutiny

6.1.0.1 There are many different models for committee structures. No one is "best", and trying to compare the committee structures of different authorities in the hope that transposing those models to your own set of circumstances will, on its own, lead to failure.

6.1.0.2 Scrutiny's structures are often a reflection of the culture in which scrutiny operates and the role which has been agreed for it. There are a few common models.

- Single committee which does all the work. More common in smaller authorities, this approach sees all scrutiny work happening in a single, formal space.

- Single committee commissioning task and finish group. Here, a committee provides co-ordination of a number of task and finish groups – the committee will usually also undertake its own substantive work

- Two committees dividing substantive topics between them (eg "people" and "places")

- Two committees dividing issues between them differently (eg "policy development" and "performance")

- Multiple committees (sometimes involving a corporate committee which "leads" the function, sometimes not)

6.1.0.3 Form should follow function, and it is only when members and officers have a clear sense of the role of scrutiny, its approach to work programming and impact, that the structure to support that work can be properly evaluated.

6.1.0.4 Further detail on committee structures can be found in CfPS's regular scrutiny survey, usually published annually in late autumn.

6.2 Chairing and membership arrangements

6.2.0.1 Technically, chairing and membership is in the gift of full Council, and the Council AGM in May is the usual point at which decisions on this are made. In practice, this means that things are largely in the gift of the executive. Membership of committees must be politically proportionate, but chairing need not be, and a council's leadership can entirely legally give all scrutiny committee chairships to majority party members. A number of councils make chairships available across party groups, proportionately, but there is no requirement to do so.

6.2.0.2 It has been suggested that Chairs could be selected by secret ballot – being elected by their peers at full Council.

6.2.1 Chairing: skills and capabilities

6.2.1.1 The guidance sets out some expectations around the skillset and capability of chairs, as well as ordinary committee members.

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

Authorities should not take into account a members' perceived level of support for or opposition to a particular political party [...]

The attributes authorities should and should not take into account when selecting individual committee members 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.

Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 27-28, 30, p16

6.2.1.2 Councils might want to think further about how they articulate the qualities of a good chair, and how they can provide assurance that the attributes mentioned in the guidance are being taken into account. .

6.2.1.3 Other members, as well as officers, have a responsibility to support and assist the chair. This is covered in more detail in 6.2.3 below.

6.2.2   Chairing: party politics and the use of the whip

6.2.2.1 Councillors sitting on scrutiny committees should not, at those committees, act in an overtly party political way. Scrutiny is meant to be a forum for the evidence-based discussion of issues affecting local people. This will involve discussion of politically contentious issues, which are likely to include disagreements, but these discussions shouldn't be framed by party political viewpoints.

6.2.2.2 Use of the party whip (sometimes known as "political management") is permitted in England.

6.2.2.3 Some councils in England use their constitutions to control the use of the whip but its informal nature and the fact that the council's Monitoring Officer is unlikely to know the detail of discussions at political group meetings may make these prohibitions difficult to enforce. The presence or threat of the whip being used as a disciplinary tool risks curtailing political debate and discussion and diminishing scrutiny's role as a neutral forum for meaningful discussion. It could also be seen as limiting the willingness of majority group members to challenge and hold to account their executive colleagues, or an undue focus by a minority group on political opposition rather than on the substance of scrutiny work.

6.2.3   Councillor membership

6.2.3.1 Membership of committees must be proportional to the political balance of the whole authority. Individual groups decide who they wish to nominate to sit on committees to fill the spaces available to them; membership is usually agreed at council AGM.

6.2.3.2 The guidance talks about the skills and capabilities, and other characteristics, of committee members, as mentioned above in respect of chairs at section xxx. It also mentions the importance of training and development.

Executive assistants

6.2.3.3 "Executive assistants" or "Portfolio holders' assistants" are councillors (usually in the majority party) who have been given an informal role by the council's executive to assist one or more members of the executive in carrying out their role. This role will sometimes be specified in the council's constitution but is not provided for in law. As such, decision-making powers held by members of the executive cannot be delegated to executive assistants, and executive assistants may take no formal part in decision-making.

6.2.3.4 As such, executive assistants can technically sit on scrutiny committees (members of the executive themselves are excluded).

Authorities are reminded that members of the executive cannot be members of a scrutiny committee. Authorities should take care to ensure that, as a minimum [our emphasis], members holding less formal executive positions, eg as Cabinet assistants, do not sit on scrutinising committees looking at portfolios to which those roles relate.

Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 25, p15

6.2.3.5 We are not aware of any councils which, in their Constitution, specifically exclude executive assistants from sitting on overview and scrutiny committees, but in most instances their role is circumscribed, owing to the risk of a conflict of interest arising. This is likely to be far easier to determine with post-decision scrutiny, although the informal nature of the executive assistant role makes judgments even here difficult to make, requires subjective determination on the part of the person involved.

6.2.3.6 It is common, therefore, that in authorities where executive assistants exist and sit on scrutiny committees, they are assigned to sit on committees that do not reflect their portfolios.

Personal and family relationships

6.2.3.7 It is inevitable that members of scrutiny committees will have personal relationships with members of the executive – particularly in smaller councils and particularly where they are in the same political party. It is not uncommon for members of the same family to sit on councils and, under some circumstances, it is therefore possible that close relatives could find themselves sitting across the scrutiny table. The guidance mentions this risk in paragraphs 25 and 31.

6.2.3.8 Monitoring Officers will have to be alive to the risks, and perceptions, around how these relationships might interfere with the operation of scrutiny. It is impossible to hand down rules on this matter – what happens, and what works, will depend on determinations made at local level. But councillors should certainly be supported to understand how their personal relationships might influence their work on scrutiny – or might be perceived as influencing that work.

6.2.4   Co-option: statutory

6.2.4.1 There is a requirement, where a council is responsible for education functions in both England and Wales, for certain voting co-optees to be appointed to the relevant committee.

6.2.4.2 For most authorities, this will be two diocesan representatives (one Church of England or Church in Wales, one Catholic) and two parent governor representatives (one primary, one secondary, and both from maintained schools). Such co-optees have voting rights but they are not treated as opposition councillors for the purposes of political proportionality. As more schools (especially secondary schools) have academised, the role of the Parent Governor Representatives is becoming more uncertain. Areas without maintained primary, or secondary, schools will not need to appoint PGRs, as there will be no parent governors to act as an electorate. Provision does exist in the legislation for a change to the way that parent governor representation is expressed where there are few maintained schools in an area, but this change can only be applied by the Secretary of State.

6.2.4.3 Parent governor representatives are elected by all parent governors in the authority's areas. This election needs to be carried out by the authority wishing to co-opt them. Guidance was produced by Government in 2001 which provided further information on this, but this guidance appears no longer to be online.

6.2.5   Co-option: other

6.2.5.1   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. Co-option to a committee requires that a council co-opt in accordance with a scheme established under s115 of the Local Government Act 2003.

6.2.5.2   There is no legal provision for co-option to task and finish groups, as T&F groups themselves are not mentioned in legislation. Task and finish groups may co-opt members without restriction. We highlighted opportunities around technical advisers or co-optees on task and finish groups in section xxx, but co-option onto formal committees is slightly different.

6.2.5.3   Most councils make provision in their constitution for the appointment of non-voting co-optees to scrutiny committees. Where an appointment is planned, arrangements for the selection of an appropriate person tend to involve an external organisation being asked to nominate one of their members, or a formal recruitment process being carried out if the person is being co-opted from the general population.

6.2.5.4   Non-voting co-optees will not affect the political balance of the meeting, but voting ones will (and allowances will therefore need to be made along the lines of those suggested above for education co-optees). Care should be taken in formal co-option in this way. There may be two reasons to co-opt:

- Expertise. A co-optee may possess particular technical skill or knowledge – often by virtue of being a representative of a particular organisation. Co-optees brought onto committees for their expertise will naturally have a large role to play when the committee considers items that relate to that issue specifically – but where a committee has especially broad terms of reference, this may not be the case;

- Personal characteristics. A co-optee may, by virtue of their background, have perspectives or insights that others on the committee may lack. Using co-optees to provide more diverse representation on a committee should be encouraged and welcomed.

6.3   Resourcing

6.3.0.1   The guidance also highlights three particular models of scrutiny support. These are explained below, along with reflections on scrutiny's value added. The wording used derives from CfPS research into scrutiny support models carried out in the mid-2000s.

6.3.0.2   Training and development support for officers is critical if they are to carry out their roles effectively. Bodies like ADSO provide representation for those in member-facing roles, along with CPD-certified courses.

6.3.1   "Specialist model"

6.3.1.1   The "dedicated scrutiny officer" model is still common in the sector, but less so than it was. There has been a drop in the number of dedicated officers since 2010, and a drop in the overall size of teams (where teams still exist).

6.3.1.2   Effective scrutiny is possible under a range of models but CfPS still considers that the specialist model provides the best opportunity for robust, high quality support to councillors.

6.3.2   "Integrated model"

6.3.2.1   Here, a single officer will provide administrative and policy support to a committee. This is an increasingly common model. An obvious shortcoming is that skillsets that combine excellence in policy support and excellence in administration are not necessarily common.

6.3.3 "Committee model"

6.3.3.1 This is the model where support is offered from within council service departments. While democratic services officers administer committee meetings, these "link officers" work with the chair to develop agendas and manage the work programme.

6.3.3.2 This model is not especially widespread and is problematic from the point of view of independence. It asks a lot of "link officers"; under this model, without the mediating work of officers working in democratic services, senior service officers might find themselves fielding large numbers of substantive queries from councillors.

6.3.4 The role of statutory officers in supporting the function

The statutory scrutiny officer

6.3.4.1 Combined authorities and councils are required to designate an officer as the "scrutiny officer", in unitary and county areas (shire districts remain exempt from the requirement, although the guidance does suggest that they consider so designating an officer).

[The role of the statutory officer 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.

Statutory guidance on overview and scrutiny in local and combined authorities, paragraph 18, p13

6.3.4.2 All councils are required to appoint a monitoring officer, a head of paid service and a s151 officer. Collectively these three officers have been termed the "golden triangle". The statutory scrutiny officer also fulfils a vital role – to support the scrutiny function and to promote it within the organisation.

6.3.4.3 The role is especially important as scrutiny officers, and democratic services officers, will often hold positions in the organisation's hierarchy that are comparatively junior. The process of carrying out scrutiny will involve them speaking to chief officers and other senior members of staff (and to councillors on the executive). The inevitable power dynamics involved could present problems where a council has an unproductive political and organisational culture. Officers supporting scrutiny members and committees can use the fact that they are empowered by members to their advantage, but properly navigating the relationships involved requires a significant degree of political awareness. This is a lot to ask; the position of scrutiny officers can, in some councils, be quite isolating. The Centre for Public Scrutiny is funded to provide substantive support on scrutiny and governance issues to both councillors and officers; scrutiny and democratic services officers who are members of professional organisations like the Association of Democratic Services Officers may find their support useful as well.

6.3.4.4 A positive working relationship recognises these power dynamics and highlights the need for the support of senior statutory officers – as champions both of the scrutiny function and of good governance more generally – to ensure that scrutiny and democratic services staff feel supported as they carry out their duties. This may be a feature that forms part of a scrutiny / executive protocol.

6.3.4.5 Difficulties will inevitably arise where there are disagreements about scrutiny's powers, role and remit. For example, questions over scrutiny's rights to require the attendance of certain people at meetings, disagreements over work programming, difficulties with acquiring and using information effectively, issues over resourcing, and so on. The role of the statutory scrutiny officer is a broad one, and the holder of that position is required to advocate on behalf of the function (and to protect its independence). In the first instance this will involve a discussion between the Monitoring Officer and the statutory scrutiny officer to consider the issues involved.

6.3.4.6 Those occupying these statutory roles need to have a nuanced and meaningful understanding of the scrutiny function in order to accurately make judgments about its operation when disagreements or other issues arise.

6.3.4.7 It is up to councils to decide who they designate to carry out this role. Some have chosen someone senior in the organisation; others have chosen a comparatively junior officer.

6.3.4.8 The arguments in favour of appointing a senior officer are:

- Gives scrutiny a high profile at a corporate level;

- Commensurate with other statutory posts such as the Monitoring Officer and s151 officer;

6.3.4.9 The arguments in favour of appointing a more junior officer are:

- Empowers those involved in scrutiny day-to-day with a statutory role and duty, which bolsters their visibility to the rest of the organisation;

- The responsibility for providing advice and guidance on scrutiny is a more obvious fit, in terms of skill-set, with an officer with practical experience of scrutiny;

- The other statutory posts relate to corporate functions across the authority, where the scrutiny officer role relates specifically to the council's non-executive activity, which is usually supported by a team or individual.

6.3.4.10 While the Act defines the statutory role as the "scrutiny officer", many councils appoint officers whose job title is "scrutiny officer", but who are not actually the statutory scrutiny officer. The role of statutory scrutiny officer in those councils may in fact be given to an officer who may not have the word "scrutiny" in their job title.

The role of the Monitoring Officer

6.3.4.11 The Monitoring Officer has three principal responsibilities:

- To report on matters they believe are, or may be, illegal or amount of maladministration. There is particular provision in the 1989 Act as to how these reports should be framed, and how they should be responded to. These are slightly different for authorities operating executive arrangements, and other authorities;

- 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.

6.3.4.12 The third of these responsibilities is arguably the one most relevant to overview and scrutiny.

6.3.4.13 Like the other two statutory roles, the role of Monitoring Officer will sit with an officer who has a broader array of duties. The Monitoring Officer will usually be the council's Director of Legal Services, or similar, and a chief officer. As such they will be involved in assisting with setting and delivering the direction of the authority at a senior level, as well as safeguarding good governance and the constitution. This makes the role of Monitoring Officer an extremely complex one.

This index provides a reference in the text of this guide by paragraph. References to what the guidance has to say about specific topics can be found at these points in the text, where relevant.

CONSTITUTION AND ETHICS COMMITTEE	AGENDA ITEM No. 6
8 JULY 2019	PUBLIC REPORT

Report of:		Fiona McMillan, Director of Law and Governance	
Cabinet Member(s) responsible:		Councillor Farooq, Cabinet Member for Digital Services and Transformation	
Contact Officer(s):	Pippa Turvey, Democratic and Constitutional Services Manager		Tel. 452460

COUNCIL MEETING FREQUENCY AND COMMITTEE START TIMES

R E C O M M E N D A T I O N S	
FROM: *Director of Law and Governance*	**Deadline date:** *N/A*

It is recommended that the Constitution and Ethics Committee:

1. Endorse the continuation of six meetings of Full Council per annum, including the Annual Council meeting; and
2. Recommend to Council that the Standing Orders and Member Officer Protocol be amended as set out in paragraphs 4.2.8 and 4.2.9 of the report, to allow committees of Council to determine their own starting times.

1.   ORIGIN OF REPORT

1.1   This report is submitted to the Constitution and Ethics Committee following discussion at a meeting of Group Leaders in relation to the frequency of Full Council meetings and the start time of Committee meetings.

2.   PURPOSE AND REASON FOR REPORT

2.1   The purpose of this report is to provide the Committee with sufficient information for it to make a determination on whether it wants to recommend an amendment the frequency of Full Council meetings and whether it wants to recommend that the starting times of committee meetings should be determined by the committees themselves.

2.2   This report is for the Constitution and Ethics to consider under its Terms of Reference No 2.7.2.1, '*Authority to oversee the operation of the Council's Constitution and authority to make recommendations to Full Council as to amendments and improvements to the Council's Constitution (including the codes and protocols) subject to the receipt and consideration of a report prepared by the Monitoring Officer, with the exception of those matters under the remit of the Executive.*'

3.   TIMESCALES

Is this a Major Policy Item/Statutory Plan?	**NO**	If yes, date for Cabinet meeting	**N/A**

4. BACKGROUND AND KEY ISSUES

4.1 Council Meeting Frequency

4.1.1 The Full Council as a meeting currently meets approximately seven times a year, including the Mayor Making meeting and the Annual Council meeting. These meetings are typically spread across the municipal year between May and March.

4.2.1 There is no legal requirement for local authorities to hold a certain number of Full Council meetings each year. For comparison, the number of Council meetings held by a (randomly selected) range of other authorities is detailed below.

Authority	Number of Meetings in 2018/19
Medway	6
Derby	7
Nottingham	6
Rutland	9
Central Bedfordshire	7
Bedford Borough	8
North Lincolnshire	4
Milton Keynes	8
Leicester City	8
Slough	9
Luton	10
Portsmouth	8
Southampton	6
North Lincolnshire	4
Redcar and Cleveland	7
Southend on Sea	7
Swindon Borough	7
Thurrock	9
Cambridgeshire County	6
Average	**7**

4.1.3 The number of meetings per year range from four to 10. The average number of meetings held per year is seven, which is in line with the number currently held by Peterborough City Council.

4.1.4 In terms of the amount of business discussed at each meeting, the average number of agenda items (excluding 'standing items') for Peterborough City Council meetings in 2018/19 was six, with a range from three to nine. The average number of motions submitted per meeting was six, with a range from five to seven. The average number of questions submitted per meeting was 21, with a range from nine to 27.

4.1.5 The rationale behind increasing the number of Council meetings per year would be to provide further opportunities for Members to submit motions for debate and to ask questions to the executive.

4.1.6   In terms of resources, each Full Council meeting requires a significant amount of preparation. This includes over 50 hours of officer time (in Democratic Services only) to undertake over 80 separate tasks. In addition to this, Corporate Management Team time is required in preparation and attendance at the meeting, and numerous support staff are required to attend each meeting. To increase the number of Council meetings per year by any significant amount would place a strain on the current officer resource.

4.1.7   Furthermore, each meeting of Full Council costs approximately £3,500. This should be taken into account in light of the increasing budget pressures facing the Council.

4.2   Committee Start Times

4.2.1   In terms of current practice, Full Council in January or March agrees the draft meeting schedule, this is then agreed in its final form at Annual Council. This includes the meeting start times. These are typically 7pm for committee meetings and 6pm for Council meetings.

4.2.2   Historically, meetings have been included in the meeting schedule at 7pm in order to allow Members and the public, who work during the daytime, sufficient time to attend meetings at the Town Hall.

4.2.3   A small number of committee meetings are held at other times, including Planning and Environmental Protection Committee, Health and Wellbeing Board, Scrutiny of the Budget, Cabinet, and informal Corporate Parenting. This is due to practical reasons, such as those attending or the potential length of the meeting.

4.2.4   Comment has been made to officers by Members as to whether allowing committees to determine their own start times would ensure a higher attendance at meetings and would mean that Members and officer time is used more efficiently.

4.2.5   In order for officers to properly draft an effective Annual Calendar of Meetings, the start time of meetings needs to be agreed prior to the Calendar being finalised (in order to ensure no meetings overlap on one day). Therefore, should Members wish for Committee's to determine their own start time, the start time for the meeting would need to be agreed by the committee ahead of the start of the municipal year, i.e. in January or February.

4.2.6   This would allow for the draft Annual Calendar of Meetings to be submitted to Council in March, and the final Calendar to the Annual Council meeting.

4.2.7   To give effect to such a change, the constitution would need to be amended in two sections, as proposed below.

4.2.8   Standing Orders:

"*__4.4 Timings of meetings__*

__4.4.1 The timings of normal committee meetings will be agreed by the committee for the next municipal year in January of the preceding municipal year (or as near to this time as possible).__

__4.4__5 Variation to the meeting schedule, ~~timings~~ and cancellation of meetings

__4.4__5.2 If there is disagreement about the timing of an additional meeting between the Chairman and Group representatives, the meeting will start at the normal time for meetings of that Committee as identified __previously by the committee and included__ within the Annual Calendar of meetings approved by Council."

4.2.9   The Member / Officer Protocol:

"*12.3 __Timing__ __The timing of normal committee meetings will be agreed by the committee for the next municipal year in January of the preceding municipal year (or as near to this time as__*

possible). For an additional or extraordinary committee meeting, if there is disagreement about timing between the chairman and group representatives, the meeting will start at the normal time for meetings of that committee as identified previously by the committee and included in the Annual Calendar of Meetings approved by Council. If there is an unresolved dispute for a working group this will be determined by the parent body."

5. CONSULTATION

5.1 Consultation has been undertaken with officers within Constitutional Services who support the Full Council and committee meetings.

6. ANTICIPATED OUTCOMES OR IMPACT

6.1 It is anticipated that the Committee will determine the best direction for the future of Full Council meetings and committees of Council. This will ensure that the meetings are open and transparent and allow for the Council's decision making process to be followed in an effective and efficient manner.

7. REASON FOR THE RECOMMENDATION

7.1 To ensure that the Council's resources are used in an effective and efficient manner while maintaining an open and transparent decision making process.

8. ALTERNATIVE OPTIONS CONSIDERED

8.1 To increase the number of Full Council meetings per year - This option has not been recommended by officers as this would result in a significant increase in the resource demand and it is considered that the number of Council meetings currently held by the Council is largely reflective of other local authorities and sufficient for the business of the Council.

For Full Council to retain responsibility for determining committee start times - This option has not been recommended by officers as there is no evidential benefit that would be missed Full Council retaining this power.

9. IMPLICATIONS

Financial Implications

9.1 There may be finance and officer resource implications arising should a significant number of Full Council meetings be added into the meetings schedule.

Legal Implications

9.2 There are no legal implications arising from this report.

Equalities Implications

9.3 There are no equalities implications arising from this report.

Children in Care and Care Leavers Implications

9.4 In relation to meetings that Children in Care and Care Leavers may attend (i.e. informal Corporate Parenting meetings), the potential for committees to set their own start times may impact on the ability for such individuals to attend.

10. BACKGROUND DOCUMENTS
Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

10.1 Peterborough City Council Constitution

11.   APPENDICES

11.1   None.

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CONSTITUTION AND ETHICS COMMITTEE	AGENDA ITEM No. 9
8 JULY 2019	PUBLIC REPORT

Report of:	Fiona McMillan Director of Law & Governance and Monitoring Officer	
Cabinet Member(s) responsible:	Councillor Irene Walsh - Cabinet Member for Communities	
Contact Officer(s):	Linda Letch - Member Services Officer	Tel. 01733 452346

PARISH COUNCILLORS REGISTERS OF INTERESTS - UPDATE

R E C O M M E N D A T I O N S	
FROM: Fiona McMillan Director of Law & Governance and Monitoring Officer	**Deadline date:** N/A

It is recommended that the Constitution and Ethics Committee:

1. Note the number of outstanding Members Interest Declarations.
2. Continue to monitor the situation and report back to the Committee in six months.
3. Should the number of Member Interest Declarations outstanding have been reduced to a nominal level, the committee to consider an annual report in future.

1. **ORIGIN OF REPORT**

1.1 This report is submitted to the Constitution and Ethics Committee by the Council's Monitoring Officer following a recent audit on parish council members interest declarations received. The original report was presented to the Committee on 28 January 2019 and an update was presented at the next meeting.

2. **PURPOSE AND REASON FOR REPORT**

2.1 The Monitoring Officer has a responsibility under s29(1) of the Localism Act to establish and maintain a register of interests of all members and co-opted members of parish council in Peterborough City Council's area. All members have a legal duty under s 30(1) of the Localism Act to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of becoming a member or co-opted members. Breach of this requirement is potentially an offence under s34 (1) (a) of the Localism Act.

2.2 The Committee requested an update on progress on:
   1. The training to be provided for Parish Clerks to better understand the responsibility for completing register of interest forms.
   2. Contacting the outstanding Parish Councillors to ascertain why the forms had not been completed.

2.3 This report is presented to the Constitution and Ethics Committee under its terms of reference "2.7.2.8, 'To have oversight of parish councils' codes of conduct and registers of interests, and authority to consider complaints regarding parish councillors) and make a decision on appropriate action to be taken."

3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	**NO**	If yes, date for Cabinet meeting	**N/A**

4. BACKGROUND AND KEY ISSUES

4.1   A report was submitted to the Constitution and Ethics Committee at their meeting on 28 January 2019 detailing those parish councillors who had failed to send the Monitoring Officer a completed Register of Interests following their election, re-election or co-option.

4.2   At that meeting the Committee requested that the Monitoring Officer contacted the relevant councillors to ask why the forms had not been returned or correctly completed.

4.3   The Committee also agreed that training be provided for Parish Clerks and Councillors to better understand the responsibility for completing register of interest forms. Although there was little uptake in the proposed training session scheduled for 10 June this will now be provided at a future Parish Liaison Committee meeting.

4.4   Following the recent elections in May there will be elected and re-elected parish councillors who will need to submit a new members interest declaration and it would therefore be anticipated that the number of declarations outstanding may have risen.

4.5   The number of declarations outstanding had been greatly reduced as at 30 April 2019.

4.6   Parish elections have been held in one ward with uncontested re-elections in seven wards on 3 May 2019 involving 68 parish councillors, all of whom will have to submit new member interest declarations.

The current number of outstanding interest forms as at the end of June is 12. A spreadsheet outlining those outstanding will be circulated in due course to members of the Committee.

5. CONSULTATION

5.1   Local consultations were not appropriate in this instance. This is a statutory duty on all local authorities and parishes.

6. ANTICIPATED OUTCOMES OR IMPACT

6.1   Continue to request member interest declarations for all those outstanding and newly elected / re-elected parish councillors.

6.2   Advice has been given to the relevant clerks on their legal responsibility to publish the members interest declarations on the parish council website (where the parish council has its own website) and maintain a copy for public inspection. It has been suggested to the clerks that the parish council's website could be linked to the Council's website and the members interest declarations displayed from there. At least one parish has taken this up.

6.3   Clerks have received the latest revised copy of the declaration form which contains guidance for completion.

7. REASON FOR THE RECOMMENDATION

7.1   It is a statutory requirement to declare parish council member interests under the Localism Act 2011.

8. **ALTERNATIVE OPTIONS CONSIDERED**

8.1 None as this is a statutory requirement.

9. **IMPLICATIONS**

9.1 **Financial Implications**

9.1.1 None for the council. If convicted of an offence under the Localism Act a councillor could face a fine of up to £5000.

9.2 **Legal Implications**

9.2.1 There is a statutory requirement to comply with the Localism Act 2011.

9.3 **Equalities Implications**

9.3.1 This report applies equally to all parish councillors.

9.4 **Rural Implications**

9.4.1 This report applies equally to both rural and urban parish / town / community councils.

10. **BACKGROUND DOCUMENTS**
Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

10.1 **The Localism Act 2011**
http://www.legislation.gov.uk/ukpga/2011/20/section/34/enacted

11. **APPENDICES**

11.1 None.

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CONSTITUTION AND ETHICS COMMITTEE	AGENDA ITEM No. 10
8 JULY 2019	PUBLIC REPORT

Report of:		Fiona McMillan, Director of Law and Governance & Monitoring Officer	
Cabinet Member responsible:		Cllr Mohammed Farooq – Cabinet Member for Digital Services and Transformation	
Contact Officer:	Philippa Turvey, Democratic and Constitutional Services Manager Daniel Kalley, Senior Democratic Services Officer		Tel. 296334

CODE OF CONDUCT COMPLAINTS

R E C O M M E N D A T I O N S	
FROM: Monitoring Officer	**Deadline date:** *N/A*

It is recommended that Constitution and Ethics Committee:

1. Note the report on complaints received/being handled by the Monitoring Officer since the Committee's last meeting in March 2019.

1. **ORIGIN OF REPORT**

1.1   This report is submitted to Constitution and Ethics Committee by the Council's Monitoring Officer.

2.   **PURPOSE AND REASON FOR REPORT**

2.1   The Constitution & Ethics Committee has the responsibility of promoting and maintaining high standards of conduct amongst members and co-opted member of the council including "monitoring the operation of the Code of Conduct. This also includes parish councillors.

2.2   The Monitoring Officer proposes that a standing item is placed on the agenda for the committee notifying and updating the committee on complaints that have been made, how they are being handled and whether they have been resolved. The committee has decided that these will be reported in an anonymised way until such time as a breach of the code of conduct is found as part of the complaints process.

2.3   This report is for Constitution and Ethics Committee to consider under its Terms of Reference No. 2.72.2

Authority to oversee and approve the operation of the Council's functions relating to the promotion and maintenance of high standards of conduct amongst members and co-opted members of the Council including:

●   Promoting and maintaining high standards of conduct by Members and co-opted members;

- Assisting the Members and co-opted members to observe the Code of Conduct;
- Advising the Council on the adoption or revision of the Members Code of Conduct and Officer Code of Conduct;
- Monitoring the operation of the both Codes of Conduct;
- Advising, training or arranging to train Members and co-opted members on matters relating to the Code of Conduct.

3.   TIMESCALES

Is this a Major Policy Item/Statutory Plan?	**NO**	If yes, date for Cabinet meeting	

4.   BACKGROUND AND KEY ISSUES

4.1   Since the committee's last report in March 2019 a sub-committee of the Constitution and Ethics Committee sitting as a Hearings Panel on 1st April 2019 considered a complaint about Councillor Fower and found that he had breached the code of conduct. A link to the meeting agenda, decision and its minutes can be found here:
Hearing Panel 1 April 2019

4.2   The Panel's unanimous decision was to make the following recommendations:
● The Panel strongly recommended that Councillor Fower should offer an unreserved apology to Councillor Fox for the offence caused by the use of the word "fascist" in a context which could be viewed as having been aimed specifically at him.
● The Panel strongly recommended that Councillor Fower attend appropriate training on data protection requirements as previously offered by the Monitoring Officer.

To date Councillor Fower has not taken up either of these recommendations.

4.3   The Panel's unanimous decision was also to impose the following sanctions:
● The Panel formally censured Cllr Fower for his behaviour and actions and that a report outlining the circumstances, findings and sanctions of this process should be presented at the next available meeting of Full Council for information. This will go to the July Council meeting.
● That this Decision Notice should be published on the Council's website.

New complaints

4.4   There have been a number of new complaints about councillors, mainly received in the few weeks before the Local Elections at the start of May. Due to the heightened sensitivity in the pre-election period and the possibility of complaints being used as part of political campaigning the Monitoring Officer delayed considering these complaints until after the election was over.

4.5   A complaint was received from a PCC councillor that another PCC councillor had breached the code of conduct in relation to a Facebook post in breach of the Council's social media code. The Monitoring Officer has met with the councillor concerned to discuss the complaint and the councillor denied that the post breached the code. The complaint is now with the council's Independent Person for a decision on what action should now be taken.

4.6   A complaint was received from a member of the public that a PCC councillor had breached the code of conduct in relation to comments made about another councillor during a full council meeting and an associated social media post in breach of the Council's social media code. The Monitoring Officer had a meeting with the councillor concerned to discuss the complaint and the councillor denied that the comments or the post breached the code. The complaint is now with the council's Independent Person for a decision on what action should now be taken.

4.7   A complaint was received from a PCC councillor that another PCC councillor had breached the council's social media code in relation to comments made on social media about them. The

Monitoring Officer has contacted the councillor for a response and following an initial response is awaiting further information in order to establish a context for the post.

4.8   A complaint has been made by a PCC councillor that another PCC councillor's social media post which was considered to "incite bigotry and hatred". The Monitoring Officer has held a meeting with the councillor to discuss the complaint which they strongly refute and the complaint is now with the council's Independent Person for a decision on what action should now be taken.

4.9   A complaint has been made by a PCC Councillor that another PCC councillor's behaviour towards them in the council chamber was disrespectful and inappropriate and in breach of the code. The Monitoring Officer has held a meeting with the councillor to discuss the complaint and the complaints is now with the council's Independent Person for a decision on what action should now be taken.

4.10   A complaint was made by a PCC member at the end of May 2019 that another councillor had used offensive language (via an acronym) in a social media exchange which had been seen by a member of the public and said they were "appalled". The complaint is that the post was in breach of the Council's Social Media Code which the Committee agreed at its March meeting and which took effect on 11 March 2019. The complaint is now with the council's Independent Person for a decision on what action should now be taken.

5.   CONSULTATION

5.1   *N/A.*

6.   ANTICIPATED OUTCOMES OR IMPACT

By reporting the complaints that have been made the Committee can more effectively monitor the operation of the Code of Conduct.

7.   REASON FOR THE RECOMMENDATION

7.1   Regular reporting of both quantities and substance of complaints will help the Committee gain a better understanding of the effectiveness of current procedures and how well the Code is being observed across both the council and the parish councils in its area. This will inform future decisions about what training may be necessary to ensure the requirements of the code are being met.

8.   ALTERNATIVE OPTIONS CONSIDERED

8.1   None

9.   IMPLICATIONS

Financial Implications

9.1   None

Legal Implications

9.2   Under the Localism Act 2011 the council may set its own procedures in relation to the handling of complaints.

Equalities Implications

9.3   None

10.   BACKGROUND DOCUMENTS
Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

10.1   The Localism Act 2011

11.   APPENDICES

11.1   None

CONSTITUTION AND ETHICS COMMITTEE	AGENDA ITEM No. 11
8 JULY 2019	PUBLIC REPORT

Report of:		Fiona McMillan, Director Law and Governance and Monitoring Officer	
Cabinet Member(s) responsible:		Councillor David Seaton, Chairman and Cabinet Member Finance	
Contact Officer(s):	Dan Kalley, Senior Democratic Services Officer		Tel. 296334

WORK PROGRAMME, FUTURE DATES AND MEMBER ISSUES

R E C O M M E N D A T I O N S	
FROM: Fiona McMillan, Director of Law and Governance and Monitoring Officer	**Deadline date:** *N/A*

It is recommended that the Constitution and Ethics Committee

1. Notes and agrees the Work Programme for the remainder of the municipal year 2019/20.
2. Notes the work being carried out around the Independent Remuneration Panel and report to be brought back at a future date.
3. Agree to moving the date of the 6 January 2020 to the end of January 2020.

1. **ORIGIN OF REPORT**

1.1 This is a standard report to the Constitution and Ethics Committee which forms part of its agreed work programme. This report provides details of the Draft Work Programme for the following municipal year.

2. **PURPOSE AND REASON FOR REPORT**

2.1 The programme can be refreshed throughout the year in consultation with senior officer and the Committee membership to ensure that it remains relevant and up to date. In addition, any delays in reporting issues are recorded so that they do not drop off the committee agenda.

2.2 This is also an opportunity for Members of the Committee to raise any issues of concern under the Committee's terms of reference for discussion or addition to the work programme.

2.3 With the next meeting of the Committee scheduled for 6 January 2020 and with the Christmas shutdown it is proposed to move the meeting to the end of January, with a date to be confirmed in due course.

3. **TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	**NO**	If yes, date for Cabinet meeting	**N/A**

4.   KEY ISSUES

4.1   Members will recall that following a motion to Full Council on , members resolved to refer for consideration to the Constitution and Ethics Committee, consideration of entitlement to special responsibility allowance and continued Chairmanship in circumstances of protracted absence. The Scheme of Allowances is due to be reviewed in readiness for implementation during the next municipal year. The Monitoring Officer is in the process of making the necessary arrangements to recruit an Independent Remuneration Panel to fulfil this task. It is appropriate for the IRP to consider the question of entitlement as part of their review and this will therefore form part of its remit. Following conclusion of that exercise the Monitoring Officer will provide an update to the Constitution and Ethics Committee and make recommendations as to any associated constitutional amendments that may be required to include those relating to changes to the Chairmanship.

5.   IMPLICATIONS

Financial Implications

5.1   There are none.

Legal Implications

5.2   There are none.

Equalities Implications

5.3   There are none.

6.   APPENDICES

6.1   Appendix A - Work Programme 2019/20.

APPENDIX A

DATE: 8 JULY 2019			
		Section / Lead	**Description**
	Scrutiny update from Government and review of scrutiny committee arrangements	Dem Services	To receive a report on conclusions and findings from government report and review current scrutiny arrangements.
	Officer Code of Conduct	Fiona McMillan	To update the Officer Code of Conduct
	Committee start times and Council meeting frequency	Dem Services	To review the start times for all Committee's of the Council and to review the overall number of Full Council meetings
	INFORMATION AND OTHER ITEMS		
	Dispensations Issues	Fiona McMillan Legal	To receive an update on the use of dispensations.
	Update on National Issues	Fiona McMillan Legal	To receive a report on any issues of national importance
	Update on Parish Council Register of Interests	Linda Letch/Claire Osborne	To receive an update on progress with Parish Council register of interests.
	Report on Code of Conduct Issues	Fiona McMillan	To receive an update as to any code of conduct cases
	Work Programme 2019 / 2020	Democratic Services Dan Kalley	

DATE: JANUARY 2020 (TBC)

		Section / Lead	Description
	Review the Cost Implications of Motions to Council	Fiona McMillan Legal	To review any costs associated with motions passed at Full Council
	Model Code of Conduct (LGA) (If completed)	Fiona McMillan	To review the Council's code of conduct based on new model code of conduct from the LGA.
	Members Gifts and Hospitality Policy guide	Fiona McMillan	To update and review the policy guide for Member's gifts and hospitality
	INFORMATION AND OTHER ITEMS		
	Dispensations Issues	Fiona McMillan Legal	To receive an update on the use of dispensations.
	Update on National Issues	Fiona McMillan Legal	To receive a report on any issues of national importance
	Update on Parish Council Register of Interests	Linda Letch/Claire Osborne	To receive an update on progress with Parish Council register of interests.
	Report on Code of Conduct Issues	Fiona McMillan	To receive an update as to any code of conduct cases
	Work Programme 2020 / 2021	Democratic Services Dan Kalley	

By virtue of paragraph(s) 4 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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