

**The good scrutiny guide**

governance responsibility **democracy**  
**accountability** transparency  
policymakers governance **involvement**

# The good scrutiny guide

**overview** guidance resource **agreement**  
**structure** authority commitment **maximum**  
stakeholders solution experience



## 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 in 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

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# 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 in 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<sup>1</sup>. 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.

<sup>1</sup> 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 respond 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/ukxi/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 by 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 be 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 where 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 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 in 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:

- 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;
- The development of those findings, which will set out some areas on which recommendations might be made; and
- 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. Inquiring 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](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 there 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-scrutiny 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](http://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 addition 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 it 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 carry out the scrutiny function (both members and officers).

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

## 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.**

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Work programming (pre-decision scrutiny, generally)	3.3.0.1
Work programming (public involvement)	2.3.1.2, 3.2.0.5
Work programming (scoring, use of criteria)	3.2.2.2
Work programming (use of information to support)	3.2.1.2 - 3





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