

Report to Overview & Scrutiny Committee

Date of meeting: 16 July 2019



Subject: Statutory Guidance on Overview & Scrutiny in Local & Combined Authorities

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Recommendations/Decisions Required:

That the Committee consider statutory guidance on Overview and Scrutiny in Local and Combined Authorities, recently published by the Ministry of Housing, Communities and Local Government.

1. In September 2017 the Communities and Local Government Select Committee undertook a review of the effectiveness of overview and scrutiny in local authorities, taking into account a broad range of evidence from a variety of sources. The review concluded with the publication of the Select Committee's findings and recommendations in December 2017.
2. The Government published its response to the Communities and Local Government Select Committee report in March 2018, giving a commitment to publish new scrutiny guidance for local authorities by December 2018. Unfortunately, such guidance was not published during the period of the recent review of the Council's overview and scrutiny select committee framework and was not therefore able to be considered by the Task and Finish Panel that undertook the review. The guidance was eventually published in May 2019 and is set out in Appendix 1 to this report.
3. Local authorities must have regard to the guidance when exercising overview and scrutiny functions. The phrase 'must have regard', when used in this context, does not mean that the sections of statutory guidance have to be followed in every detail, but that they should be followed unless there is a good reason not to in a particular case.
4. The guidance highlights a number of specific areas that directly contribute towards the effectiveness of overview and scrutiny. These range from practical advice on items such as the importance of work programming to the less tangible and harder to influence, such as organisational culture. The six themes set out in the guidance are:
 - Culture;
 - Resourcing;
 - Selecting Committee Members;
 - Power to Access Information;
 - Planning Work; and
 - Evidence Sessions.
5. The content of the six themes are summarised in the following paragraphs of this report.

Culture

6. The guidance acknowledges that organisational culture within local authorities is one of the key measures of the success of overview and scrutiny, with an emphasis placed on the importance of overview and scrutiny being owned and led by Members.
7. It is also highlighted within the guidance that the performance of overview and scrutiny and its effectiveness can be considered by external bodies such as regulators and published in public reports. The guidance lists a range of suggested mechanisms to help ensure that the organisational culture is supportive of the role of scrutiny, including:
 - (a) recognising the legal and democratic legitimacy of overview and scrutiny - the need for all members and officers to recognise the importance and legitimacy of overview and scrutiny, which has specific powers set out in law, is highlighted within the guidance;
 - (b) identifying a clear role and focus - it is recommended that there is a need for overview and scrutiny to have a clearly defined role within the organisation that is focussed on providing value. It is emphasised that there needs to be a clear division of responsibilities between overview and scrutiny and audit functions;
 - (c) ensuring early and regular engagement between the Cabinet and overview and scrutiny - it is recommended that there should be early and regular discussions between overview and scrutiny and the Cabinet, particularly in regard to the Cabinet's future work programme;
 - (d) managing disagreement - the guidance recommends that a protocol is developed to manage any instances when the Cabinet disagrees with recommendations of overview and scrutiny;
 - (e) providing the necessary support - the guidance recognises that determining the level of support available for overview and scrutiny is a matter for individual authorities, but it does highlight that appropriate support should be given to allow members to access information required to fulfil their duties;
 - (f) ensuring impartial advice from officers - the guidance reconfirms the need for officers to be able to give impartial advice to overview and scrutiny highlighting, in particular, the importance of the 'statutory officer' roles (Head of Paid Service, Chief Financial Officer and Monitoring Officer);
 - (g) communicating the role and purpose of overview and scrutiny - the guidance highlights that a lack of awareness of the role of overview and scrutiny can act as an impediment to its success. As such it is crucial to communicate the importance of overview and scrutiny and the role it plays in decision-making, to ensure that officers are aware of the role of overview and scrutiny and the importance of providing support to the overview and scrutiny function;
 - (h) maintaining the interest of the Council in the work of overview and scrutiny - the guidance notes that it is important that other non-scrutiny members are kept informed of the work of overview and scrutiny. The suggested mechanism for this is through the submission reports and recommendations to full Council rather than solely to the Cabinet;
 - (i) communicating the role of overview and scrutiny to the public - the guidance suggests engaging with the Communications Team to publicise and raise awareness of the work of overview and scrutiny in the local community; and
 - (j) ensuring that overview and scrutiny members are supported in having an independent mindset. The guidance acknowledges the difficulty for members in potentially having to scrutinise colleagues, but emphasises that in order for overview and scrutiny to work effectively, it is fundamental that members have an independent mindset. It highlights the need for the chairmen of overview and scrutiny committees to work proactively to identify any contentious issues and plan how to manage them.
8. Some of these issues are outside of the remit of the Scrutiny and Overview Committee to directly influence. The Committee may therefore wish to consider highlighting

relevant issues to the Constitution Working Group, in order that consideration can be given to how these matters could be implemented.

Resourcing

9. As already identified, the guidance does not seek to prescribe a specific level of officer support allocated to be allocated to overview and scrutiny, but it does highlight that an appropriate level of support is required to ensure that overview and scrutiny functions effectively. In addition to specific officer support, the guidance highlights that any support should also include the way the wider Council engages with overview and scrutiny.

Selecting Committee Members

10. The guidance emphasises the need to consider experience, expertise, interests, ability to act impartially, ability to work as part of a group and capacity to serve when selecting members to serve on overview and scrutiny committees. The guidance recognises the importance that the role of the chairman plays in the success of overview and scrutiny, with this role being responsible for establishing its profile, influence and ways of working. A suggestion is made for using a secret ballot as a method for selecting scrutiny chairs, but it is acknowledged that it is up to local authorities to choose the best method for their circumstances.
11. It is recommended that ongoing training is provided for Scrutiny Members to allow them to fulfil their roles successfully. In particular the need for Members to be aware of their legal powers and understand how to prepare for and ask relevant questions at overview and scrutiny meetings are essential. The guidance also recognises the value that can be added by outside expertise through either co-option of members onto a committee or the use of technical advisors for specific subject.

Power to Access Information

12. The guidance reemphasises the legal powers for overview and scrutiny to access information in order to be able to carry out its work. This includes regular access to key sources of information such as data on finance, performance and risk. The guidance also sets out a number of considerations for overview and scrutiny when requesting information from external organisations including the need to explain the purpose of scrutiny, highlighting the benefits of an informal approach, how to encourage compliance with the request and who best to approach.

Planning Work

13. The guidance stresses the importance of work programming in the success of overview and scrutiny, with a focus needed on items that can make a tangible difference. In planning its work programme, it is recommended that overview and scrutiny should have in the main a long-term plan, but with enough flexibility to ensure that urgent, short term issues can be considered as needed.
14. It is recognised that there needs to be coordination across the work programmes of individual overview and scrutiny committees, with necessary prioritisation to ensure that the intended outcome for a specific item remains focussed. Coordination will also help ensure that the best use is made of the available support for scrutiny.
15. The guidance recommends using a variety of sources to inform the work programme, including the public, partner organisations and the Cabinet. In consulting with the public, the guidance highlights that formal consultation on overview and scrutiny committee activity may be less successful than individual members having conversations with groups and individuals within their local communities.

16. The guidance also recommends the use of shortlisting processes to decide which topics to include in the work programme, to ensure that the items selected for overview and scrutiny activity can add value. The guidance sets out a number of different ways in which topics can be scrutinised, including having a single item on an agenda, dedicating a whole meeting to one item, a short task and finish group, a longer-term task and finish group or a standing panel. The guidance sets out when it might be most appropriate to use each of these approached to overview and scrutiny activity.

Evidence Sessions

17. The guidance highlights that evidence sessions are a key way for overview and scrutiny committees to inform their work and emphasises the need for effective planning. In particular, it is recommended that consideration is given to setting overall objectives for each session and the types of questions that need to be asked to achieve such objectives.
18. In developing recommendations from evidence sessions, the guidance advocates the need for them to be evidence based and SMART (specific, measurable, achievable, relevant and timed). The guidance also suggests that a maximum of six to eight recommendations per topic should be sufficient to ensure that a focussed response is received.

Recommendations

19. The Committee is requested to consider the statutory guidance on Overview and Scrutiny in Local and Combined Authorities, recently published by the Ministry of Housing, Communities and Local Government, and to identify whether any changes are required to current processes as a result of the guidance.

Resource Implications:

The recommendations of this report seek to enable scrutiny activity to more effectively meet statutory requirements.

Legal and Governance Implications:

The Council must have regard to the Statutory Guidance published by the Ministry of Housing, Communities and Local Government when exercising overview and scrutiny functions. The constitution sets out rules for the management of its overview and scrutiny responsibilities.

Safer, Cleaner, Greener Implications:

There are no implications arising from the recommendations of this report in respect of the Council's commitment to the Climate Local Agreement, the corporate Safer, Cleaner, Greener initiative, or any crime and disorder issues within the district.

Consultation Undertaken:

This report requests the Committee to consider the Statutory Guidance published by the Ministry of Housing, Communities and Local Government.

Background Papers:

None

Impact Assessments:

Risk Management

The Council's constitution sets out rules for the management of its overview and scrutiny responsibilities.

Equality

There are no equality implications arising from the recommendations of this report.