

STATUTORY GUIDANCE ON OVERVIEW & SCRUTINY IN LOCAL AUTHORITIES

Summary: The Government has published new statutory guidance on overview and scrutiny in local government, aimed at helping them carry out the scrutiny function effectively.

Conclusions: The guidance includes a number of policies and practices authorities should adopt or should consider adopting when deciding how to carry out their overview and scrutiny functions. This report considers which of these the Council may wish to adopt.

Recommendations:

1. The introduction of criteria / a scoring system for topic selection
2. To include the consideration of resource implications when establishing a task and finish group or standing panel
3. The creation of a 'Scrutiny Guide' which would provide Councillors, officers and members of the public with an outline of the function and processes of the Overview & Scrutiny Committee at NNDC. It would set out to answer what overview and scrutiny is, where it fits into the overall Council process, who can be involved and how it works

To recommend to Cabinet:

1. The creation of an executive/scrutiny protocol to support early and regular engagement between the executive and scrutiny (see Appendix A)

Cabinet Member(s)
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Ward(s) affected: All

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1. Introduction

- 1.1 Overview and Scrutiny Committees were introduced in 2000 as part of the new executive governance arrangements to ensure that non-executive members could hold the executive to account for the decisions and actions that affect their communities.
- 1.2 Overview & scrutiny committees have statutory powers to scrutinise decisions that the Executive (Cabinet) is planning to take, those it plans to implement and those that have been taken or implemented. Scrutiny committees can make recommendations to enable improvements to policies and how they are developed and implemented.
- 1.3 Effective overview and scrutiny should include; the provision of a constructive critical friend approach, reflection of the voices and concerns of the public, a drive to improve public services and being led by members with an independent stance who take responsibility for their role.
- 1.4 In 2017 the Communities and Local Government Select Committee investigated overview and scrutiny. They produced a report to which the Government responded in early 2018.
- 1.5 The response included a commitment to publish revised statutory guidance on overview and scrutiny by the end of 2018.
- 1.6 The Guidance, published by the Ministry of Housing, Communities and Local Government applies to all councils with a scrutiny function.
- 1.7 Councils are obliged to 'have regard to' the guidance.

2. Main themes of the Guidance

- 2.1 The guidance covers six main themes; culture, resourcing, selecting committee members, powers to access information, planning work and engaging the public and evidence sessions.

Culture

- 2.1.1 Creating a strong organisational culture supports scrutiny work that can add real value, such as improving policy making and the efficient delivery of public services. Its effectiveness is often considered by external bodies and a weak Scrutiny function can help create a negative public image of the work of the authority as a whole.
- 2.1.2 All members and officers should recognise and appreciate the importance of the scrutiny function as set out by law. In addition, members can bring real value to scrutiny due to their close connection to their local communities.
- 2.1.3 To ensure that scrutiny has a clear role and focus within the organisation, prioritisation of the committee's work programme is key. A clear division of responsibilities between the audit function and the scrutiny function is imperative.

- 2.1.4 Early and regular engagement between scrutiny and cabinet is important, particularly regarding the cabinet work programme. This will help identify potential areas of conflict or disagreement and reduce the risk of the executive not supporting the recommendations of the scrutiny committee. One way this engagement can be managed is via an executive-scrutiny protocol, which can help define the relationship between the two and manage any differences of opinion before they become challenging and unproductive. The protocol can provide a framework for disagreement and debate.
- 2.1.5 Senior officers should ensure all officers feel confident in providing impartial advice to scrutiny committees. One way to achieve this is to make sure that all members and officers are aware of the role the scrutiny committee plays in the organisation – its values and the outcomes that it can deliver
- 2.1.6 The Council should ensure that scrutiny has a profile in the wider community. Ideally this will require engagement early on in the work programming process.

Resourcing

- 2.2.1 It is up to each authority to decide on the level of resource it provides to the support of the scrutiny function. Effectively resourced scrutiny can increase engagement with local communities and also help policy formulation, reducing the need for call-ins.
- 2.2.2 Authorities should ensure that officers providing scrutiny support are able to provide impartial advice.

Committee Members

- 2.3.1 When selecting members to serve on scrutiny committees, an authority should consider their impartiality, experience, skills and capacity to serve
- 2.3.2 These attributes should also apply to the selection of the Chairman. In addition, the Chairman should ensure the committee's independence and avoid it being viewed as 'opposition' to the executive.
- 2.3.3 Training for committee members is key to ensure that they can carry out their role as effectively as possible.
- 2.3.4 Outside expertise can add value to scrutiny. Local residents and community representatives can be co-opted onto the committee and in some cases, technical advisers could provide assistance and advice in evaluating evidence.

Power to Access Information

- 2.4.1 The need for a scrutiny committee to access information to do its job effectively is recognised in law with enhanced powers to access exempt or confidential information. Members of the executive and senior officers should take care to avoid refusing such requests or limiting the information provided.

- 2.4.2 Scrutiny members should have regular access to key information about the management of the authority, particularly on performance management, finance and risk
- 2.4.3 When seeking information from an external organisation, the committee should clearly explain the purpose of scrutiny and the benefits it can bring.

Planning work

- 2.5.1 To ensure that scrutiny has an impact, with the committee making effective recommendations, they need to plan their work programme. The scrutiny officer can play a key role in the prioritisation of topics to ensure that they justify the positive impact that scrutiny can bring.
- 2.5.2 Communications officers can help the committee engage with the public and advise on how internal expertise and local knowledge from members and officers can make a contribution. Formal consultation with the public on the committee's work programme can be difficult but online forums or conversations in places where the community comes together can help with engagement and provide useful feedback on whether topics are relevant.
- 2.5.3 Information sources are key to informing the work programme and could include the following;
- Performance information from the Council and its partners
 - Finance and risk information from the Council and its partners
 - Corporate complaints information – including issues raised at members' surgeries
 - Business cases and options appraisals for forthcoming major decisions (particularly useful for pre-decision scrutiny)
 - Reports and recommendations issued by relevant ombudsmen.
- 2.5.4 When shortlisting topics for inclusion in the work programme, the kind of questions a committee should consider might include:
- Do we understand the benefits scrutiny would bring to this issue?
 - How could we best carry out work on this subject?
 - What would be the best outcome of this work?
 - How would this work engage with the activity of the executive and other decision-makers including partners?

A scoring system can help evaluate and rank work programme proposals.

- 2.5.5 When carrying out work, the committee can scrutinise topics in several ways;
- Report to the committee – can be a limited opportunity for effective scrutiny but useful if a watching brief is required
 - Single issue meeting – this could be less formal than a committee meeting and could take the format of a 'rapid review' where evidence is taken from a number of witnesses
 - Task & finish groups – these could be short and sharp – over just two or three meetings or spread over a number of months. Resource implications can mean that these are best used for complex matters.

- Standing panels – this can be a useful way of keeping a watching brief over a critical issue. Again, resource implications may limit the use of them.

Evidence Sessions

- 2.6.1 These are a key way for scrutiny committees to inform their work. Good preparation is vital and Members should have a clear idea of what the committee hopes to get out of each session. Setting overall objectives and then considering the types of question that should be asked can help elicit the information that the committee is seeking. Effective planning should mean that at the end of the session it is relatively straightforward for the chair to draw themes together and highlight key findings. After an evidence session it could be beneficial to hold a short ‘wash-up’ session to review whether the objectives were met and if there are any lessons to be learnt for future sessions.
- 2.6.2 When drafting recommendations, they should be evidence-based and SMART (specific, measurable, achievable, relevant and timely) and ideally number between six and eight. Sharing draft recommendations with Executive members can provide an opportunity for a sense-check. This could be picked up within an Executive/ Scrutiny Protocol.

3. Conclusion

- 3.1 The statutory guidance produced by the Ministry of Housing, Communities and Local Government acknowledges that authorities themselves are best-placed to know which scrutiny arrangements and procedures are most appropriate for their own individual circumstances. In recent years, at NNDC, there has been a significant amount of support and training provided to the Overview and Scrutiny Committee and, having looked at the main themes of the guidance, the committee is already working to the standards suggested and has adopted several of the procedures and practices that are considered to be the basis of effective scrutiny. However, there are some areas where the Committee could improve even further and which would help embed a culture that allows overview and scrutiny to flourish at NNDC.
- 3.2 The suggested areas for change are:

- The introduction of criteria / a scoring system for topic selection
- To include the consideration of resource implications when establishing a task and finish group or standing panel (whether the is the technical knowledge and /or capacity within the Council or whether external expertise or support will be required)

To ensure that good practice is embedded and formalised, it is suggested that the Committee could support the following:

- The drafting of a ‘Scrutiny Guide’ which would provide Councillors, officers and members of the public with an outline of the function and processes of the Overview & Scrutiny Committee at NNDC. It would set out to answer what overview and scrutiny is, where it fits into the overall Council process, who can be involved and how it works.

- The creation of an executive/scrutiny protocol to support early and regular engagement between the executive and scrutiny (see Appendix A)

4. Implications and Risks

There are no implications and risks. Any changes are aimed at improving the processes and working style of the committee.

5. Financial Implications and Risks

There are no financial implications and risks.

6. Sustainability

No issues.

7. Equality and Diversity

No issues.

8. Section 17 Crime and Disorder considerations

No issues.