



Scrutiny Board

4 June 2019

Report title	Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities	
Cabinet member with lead responsibility	Cabinet Member for Governance	
Wards affected	All	
Accountable director	Mark Taylor, Deputy Managing Director	
Originating service	Governance	
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Report to be/has been considered by	Strategic Executive Board	21 May 2019

Recommendation(s):

- (a) That the publication of new statutory guidance be noted.

1.0 Purpose

- 1.1 To update Scrutiny Board on the new Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities issued by the Ministry of Housing, Communities and Local Government in May 2019.

2.0 Background

- 2.1 The Guidance seeks to ensure that local authorities and combined authorities are aware of the purpose of overview and scrutiny, what effective scrutiny looks like, how to conduct it effectively and the benefits it can bring.
- 2.2 The Guidance includes a number of policies and practices that authorities should adopt or should consider adopting when deciding how to carry out their overview and scrutiny functions.
- 2.3 The guidance recognises that authorities approach scrutiny in different ways and have different processes and procedures in place, and that what might work well for one authority might not work well in another.
- 2.4 The Guidance is classed as statutory which means that Local authorities and combined authorities must have regard to it when exercising their functions. The phrase 'must have regard', when used in this context, does not mean that the sections of 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.

3.0 What is Effective Scrutiny?

- 3.1 Effective scrutiny must be able to provide constructive challenge without being seen as a hurdle to be avoided in the decision-making process.
- 3.2 Scrutiny must be about more than just holding the executive to account, and effective *scrutiny should have a defined impact on the ground, with the Committee making recommendations that will make a tangible difference to the work of the authority.* (Section 47 of the Guidance).
- 3.3 Scrutiny must reflect the concerns of the public, with scrutiny councillors bringing forward suitable items for inclusion on the scrutiny work plans.

4.0 The Scrutiny Work Plan

- 4.1 Effective scrutiny needs a clear role, providing focus and direction for the work plan; this role must be agreed and understood by the authority as a whole. Scrutiny has the power to look at anything which affects the area or its inhabitants, but such a generalised approach is not effective, and prioritisation is required. (Section 49).

- 4.2 Effective scrutiny needs to have a clear idea of what it is going to do over a long-term period whilst maintaining enough flexibility for it to respond to any unexpected or short-term issues that might occur.
- 4.3 When considering an item for inclusion on the work plan the following (as a minimum) should be considered (Section 55):
1. Do we understand the benefits that scrutiny would bring to this issue?
 2. How could we best carry out work on this subject?
 3. What do we expect to be the outcome of this work?
 4. How does this work link and engage with the work of the executive, other decision-making bodies, partners and the Council Plan?

5.0 Organisational Culture

- 5.1 The Guidance at section 9 highlights the fact that Scrutiny is a member led process and that in order to succeed scrutiny must sit within a strong organisational culture that enables it to add real value to policy making and the efficient delivery of public services. Lack of support and engagement with scrutiny will often lead to poor quality and ill-focused work.
- 5.2 The Guidance at Section 10 reinforces that the effectiveness of scrutiny is often considered by external bodies (regulators and inspectors) with outcomes being made public. Good scrutiny can impact on the reputation of the authority as a whole.
- 5.3 Section 11 of the Guidance provides a check list for establishing a strong organisational culture including:
- a) Recognition of scrutiny's legal and democratic legitimacy
 - b) Identification of a clear role and focus
 - c) Ensuring early and regular engagement between the executive and scrutiny
 - d) Managing disagreement
 - e) Providing scrutiny with the right support
 - f) Ensuring impartial advice from officers
 - g) Communication of the role of scrutiny to the whole authority and to the public
 - h) Providing a voice for scrutiny at Full Council meetings
 - i) Ensuring that scrutiny members are supported in having an independent mindset.

6.0 Performance Monitoring and Access to Information

- 6.1 Scrutiny must be able to show how it can contribute to achieving the objectives set out in the Council Plan 2019-2024
- 6.2 The Guidance at Section 40 considers that scrutiny members should have access to a regularly available source of key information about the management of the authority and in particular information on performance management and risk. The Guidance goes on to state that where scrutiny members have access to and are supported in understanding

this information the number of unfocused and unproductive questions and requests are reduced. Scrutiny officers may act as a link between scrutiny members and council officers when required to ensure that there is a clear understanding of why and for what purpose the information is required.

- 6.3 Regulations already exist regarding timeframes within which executives should comply with requests for certain types of information from a scrutiny member (ten clear working days).

7.0 National and regional Matters

- 7.1 Scrutiny must be aware of the context in which it is operating and seek to understand how national and regional issues may impact Wolverhampton. There are direct implications here regarding the West Midlands Combined Authority Overview and Scrutiny Committee and how we work in partnership with this and other organisations to ensure the best for the City.

8.0 Selection of chairs

- 8.1 The Guidance at section 32 confirms that the method for selecting committee chairs is the prerogative of the local authority and its constitution. However, it is recommended that each authority should consider taking a vote by secret ballot.
- 8.2 The Guidance also considers the importance of ensuring the independence of the committee and that a committee chair should not preside over scrutiny of their relative.

9.0 Training

- 9.1 The Scrutiny Team recently met with the Organisational Development Team to consider training for scrutiny councillors and it was agreed that a new approach may be needed to engage better with councillors.
- 9.2 The Scrutiny Manager has approached the Centre for Public Scrutiny with a view to arranging a one-day conference at the Civic Offices. The conference could also be open to other neighbouring authorities to attend depending on numbers. The event would provide a number of workshops for councillors to attend thus moving away from the one-off, single topic training courses. The event would also provide an opportunity for officers to attend and work with councillors in a more relaxed environment.

10.0 Creating an Executive-Scrutiny Protocol

- 10.1 An Executive-Scrutiny Protocol would provide clarity regarding the expectations of scrutiny members, executive members and officers of the authority.

The protocol may contain sections on:

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

5.0 Financial implications

- 5.1 There are no financial implications associated with the first twelve recommendations in this report, though it is worth noting that a net budget of £176,000 provides for a Scrutiny Team within Governance to support scrutiny processes within the Council. The final recommendation concerns the potential scrutiny symposium. The full cost of this has yet to be assessed, but the Centre for Public Scrutiny has already agreed to make a contribution of £500. It is anticipated that any cost in excess of this will be met from the £293,000 corporate training budget. [GE/17052019/G]

6.0 Legal implications

- 6.1 Statutory guidance is binding on the Council and we would need to show it has been adopted and followed in the event of any kind of challenge. This is what this report seeks to do.
- 6.2 The Council will also need to be able to show that members on the Scrutiny Panel have been trained on the new guidance, which is also considered in this report. Records will need to be kept of who attends training and when, so that this can be evidenced when and if required.

[LW/21042019/H]

7.0 Equalities implications

- 7.1 There are no direct equality implications associated with this report. Equality duties will be considered individually for each matter

8.0 Environmental implications

- 8.1 There are no direct environmental implications associated with this report.

9.0 Human resources implications

9.1 There are no human resources implications associated with this report.

10.0 Corporate landlord implications

10.1 There are no corporate landlord implications associated with this report.

11.0 Appendices

11.1 Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities.