

Briefing Paper - Summary of Communities and Local Government Select Committee Scrutiny Report

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Intended audience: Internal ☐ Partner Organisations ☐ Public ☒ Confidential ☐

The House of Commons, Communities and Local Government Select Committee, has made a number of recommendations to Government on the arrangements for Local Government Scrutiny following their review on the effectiveness of the Scrutiny function. The full report can be accessed at the following link,

<https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/369/369.pdf>

The conclusions and recommendations from their main report are listed below: -

Appendix 1 to this briefing note, is the Centre for Public Scrutiny's Response to the Select Committee report.

Purpose of Briefing: Scrutiny Board is asked to consider and discuss each of the recommendations from the Select Committee Report. A formal response to the report from Central Government is still awaited.

Summary of Select Committee Report (Taken Direct from the Summary of Recommendations in the Communities and Local Government Select Committee Report)

The role of scrutiny

1. We recommend that the guidance issued to councils by DCLG on overview and scrutiny committees is revised and reissued to take account of scrutiny's evolving role.

Proposed revisions to Government guidance on Scrutiny Committees: -

- That overview and scrutiny committees should report to an authority's Full Council meeting rather than to the executive, mirroring the relationship between Select Committees and Parliament.
- That scrutiny committees and the executive must be distinct and that executive councillors should not participate in scrutiny other than as witnesses, even if external partners are being scrutinised.
- That councillors working on scrutiny committees should have access to financial and performance data held by an authority, and that this access should not be restricted for reasons of commercial sensitivity.
- That scrutiny committees should be supported by officers that are able to operate with independence and offer impartial advice to committees. There should be a

greater parity of esteem between scrutiny and the executive, and committees should have the same access to the expertise and time of senior officers and the chief executive as their cabinet counterparts.

- That members of the public and service users have a fundamental role in the scrutiny process and that their participation should be encouraged and facilitated by councils.
2. We call on the Local Government Association to consider how it can best provide a mechanism for the sharing of innovation and best practice across the scrutiny sector to enable committees to learn from one another. We recognise that how scrutiny committees operate is a matter of local discretion, but urge local authorities to take note of the findings of this report and consider their approach.

Party politics and organisational culture

3. All responsible council leaderships should recognise the potential added value that scrutiny can bring, and heed the lessons of high profile failures of scrutiny such as those in Mid Staffordshire and Rotherham.
4. To reflect scrutiny's independent voice and role as a voice for the community, we believe that scrutiny committees should report to Full Council rather than the executive and call on the Government to make this clear in revised and reissued guidance. When scrutiny committees publish formal recommendations and conclusions, these should be considered by a meeting of the Full Council, with the executive response reported to a subsequent Full Council within two months.
5. We believe that executive members should attend meetings of scrutiny committees only when invited to do so as witnesses and to answer questions from the committee. Any greater involvement by the executive, especially sitting at the committee table with the committee, risks unnecessary politicisation of meetings and can reduce the effectiveness of scrutiny by diminishing the role of scrutiny members. We therefore recommend that DCLG strengthens the guidance to councils to promote political impartiality and preserve the distinction between scrutiny and the executive.
6. It is vital that the role of scrutiny chair is respected and viewed by all as being a key part of the decision-making process, rather than as a form of political patronage.
7. We believe that there are many effective and impartial scrutiny chairs working across the country, but we are concerned that how chairs are appointed has the potential to contribute to lessening the independence of scrutiny committees and weakening the legitimacy of the scrutiny process. Even if impropriety does not occur, we believe that an insufficient distance between executive and scrutiny can create a perception of impropriety.
8. We believe that there is great merit in exploring ways of enhancing the independence and legitimacy of scrutiny chairs such as a secret ballot of non-executive councillors. However, we are wary of proposing that it be imposed upon authorities by government. We therefore recommend that DCLG works with the LGA and CfPS to identify willing councils to take part in a pilot scheme where the impact of elected chairs on scrutiny's effectiveness can be monitored and its merits considered.

Accessing information

9. Scrutiny committees that are seeking information should never need to be 'determined' to view information held by its own authority, and there is no justification for a committee having to resort to using Freedom of Information powers to access the information that it needs, especially from its own organisation. There are too many examples of councils being uncooperative and obstructive.
10. Councils should be reminded that there should always be an assumption of transparency wherever possible, and that councillors scrutinising services need access to all financial and performance information held by the authority.
11. We do not believe that there should be any restrictions on scrutiny members' access to information based on commercial sensitivity issues. Limiting rights of access to items already under consideration for scrutiny limits committees' ability to identify issues that might warrant further investigation in future, and reinforces scrutiny's subservience to the executive. Current legislation effectively requires scrutiny councillors to establish that they have a 'need to know' in order to access confidential or exempt information, with many councils interpreting this as not automatically including scrutiny committees. We believe that scrutiny committees should be seen as having an automatic need to know, and that the Government should make this clear through revised guidance.
12. We note that few committees make regular use of external experts and call on councils to seek to engage local academics, and encourage universities to play a greater role in local scrutiny.
13. We commend such examples of committees engaging with service users when forming their understanding of a given subject, and encourage scrutiny committees across the country to consider how the information they receive from officers can be complemented and contrasted by the views and experiences of service users.

Resources

14. We acknowledge that scrutiny resources have diminished in light of wider local authority reductions. However, it is imperative that scrutiny committees have access to independent and impartial policy advice that is as free from executive influence as possible. We are concerned that in too many councils, supporting the executive is the over-riding priority, with little regard for the scrutiny function. This is despite the fact that at a time of limited resources, scrutiny's role is more important than ever.
15. We therefore call on the Government to place a strong priority in revised and reissued guidance to local authorities that scrutiny committees must be supported by officers that can operate with independence and provide impartial advice to scrutiny councillors. There should be a greater parity of esteem between scrutiny and the executive, and committees should have the same access to the expertise and time of senior officers and the chief executive as their cabinet counterparts. Councils should be required to publish a summary of resources allocated to scrutiny, using expenditure on executive support as a comparator. We also call on councils to

consider carefully their resourcing of scrutiny committees and to satisfy themselves that they are sufficiently supported by people with the right skills and experience.

16. We recommend that the Government extend the requirement of a Statutory Scrutiny Officer to all councils and specify that the post-holder should have a seniority and profile of equivalence to the council's corporate management team. To give greater prominence to the role, Statutory Scrutiny Officers should also be required to make regular reports to Full Council on the state of scrutiny, explicitly identifying any areas of weakness that require improvement and the work carried out by the Statutory Scrutiny Officer to rectify them.

Member training and skills

17. It is incumbent upon councils to ensure that scrutiny members have enough prior subject knowledge to prevent meetings becoming information exchanges at the expense of thorough scrutiny. Listening and questioning skills are essential, as well as the capacity to constructively critique the executive rather than following party lines. In the absence of DCLG monitoring, we are not satisfied that the training provided by the LGA and its partners always meets the needs of scrutiny councillors, and call on the Department to put monitoring systems in place and consider whether the support to committees needs to be reviewed and refreshed. We invite the Department to write to us in a year's time detailing its assessment of the value for money of its investment in the LGA and on the wider effectiveness of local authority scrutiny committees.

The role of the public

18. The Government should promote the role of the public in scrutiny in revised and reissued guidance to authorities, and encourage council leaderships to allocate sufficient resources to enable it to happen. Councils should also take note of the issues discussed elsewhere in this report regarding raising the profile and prominence of the scrutiny process, and in so doing encourage more members of the public to participate in local scrutiny. Consideration also needs to be given to the role of digital engagement, and we believe that local authorities should commit time and resources to effective digital engagement strategies. The LGA should also consider how it can best share examples of best practice of digital engagement to the wider sector.

Scrutinising public services provided by external bodies

19. Scrutiny committees must be able to monitor and scrutinise the services provided to residents. This includes services provided by public bodies and those provided by commercial organisations. Committees should be able to access information and require attendance at meetings from service providers and we call on DCLG to take steps to ensure this happens. We support the CfPS proposal that committees must be able to 'follow the council pound' and have the power to oversee all taxpayer-funded services.

20. In light of our concerns regarding public oversight of LEPs, we call on the Government to make clear how these organisations are to have democratic, and publicly visible, oversight. We recommend that upper tier councils, and combined authorities where appropriate, should be able to monitor the performance and effectiveness of LEPs through their scrutiny committees. In line with other public bodies, scrutiny committees should be able to require LEPs to provide information and attend committee meetings as required.

Scrutiny in combined authorities

21. We are concerned that effective scrutiny of the Metro Mayors will be hindered by under-resourcing, and call on the Government to commit more funding for this purpose. When agreeing further devolution deals and creating executive mayors, the Government must make clear that scrutiny is a fundamental part of any deal and that it must be adequately resourced and supported.

Appendix 1 – Centre for Public Scrutiny Preliminary Response to the Report

Today, the CLG Select Committee has published its report into scrutiny in local government. CfPS welcomes the findings of this inquiry – the Committee has recognised the cultural and structural challenges which put barriers in the way of making member-led accountability effective, distinctive and proportionate. This brief post outlines our response to some of the principal findings.

Many of the challenges that the Committee identify are cultural in nature – connected to the issue of “parity of esteem” between scrutiny and the executive. The recognition of this parity of esteem rests on both the commitment of the executive and the diligence of scrutiny members in working constructively. Our work has always aimed to develop the scrutiny/executive relationship, and in the New Year we will be looking again at how we can address this issue with our partners.

We particularly welcome the call for enhanced information rights for councillors. Scrutiny councillors do have broad rights of access to information, which were expanded upon in 2012 – but these rights do not go far enough. We agree with the Committee that scrutiny members should have an automatic right of access to information – not just where it relates to a “live” scrutiny inquiry – and that councils should look at the way that they make “commercially sensitive” information available to scrutiny. While we produced research on this subject in 2015 we are concerned that the key arguments – and legal obligations – around councillors’ information rights have yet to hit home in many authorities.

We also welcome the Committee’s comments and recommendations on resourcing. While Government should not be expected to make requirements and expectations of democratically-led local authorities about resourcing, the suggestion that councils publish information about the level of resource available to scrutiny will, we think, allow a debate to take place about what scrutiny does with that resource. In particular, it will help members and officers to identify where officer resourcing may be “hidden” – we have published recently on the fact that councils with limited dedicated officer resourcing may instead rely more heavily on senior officer support from service departments, in a way that makes more of a call on resources than many might expect.

The Committee also made findings and recommendations on sector support and training. We agree with the Committee on the need to ensure that training directly reflects the needs of scrutiny members. Our own training and development courses, workshops and conferences consistently result in satisfaction rates of over 90%, but we will look with fresh urgency at those with whom that training does not currently engage – either because they don’t feel that it fits their needs and because they don’t feel that it offers value for money. Our whole purpose as an organisation is to support good governance; supporting elected members to be effective is a central part of that, and we will look to put in place ways to make sure that their needs continue to be front and centre in our offer in the future.

Finally, it is worth pointing out that the Committee suggests that DCLG makes available £21 million per year to support scrutiny; this is not strictly accurate. That figure encompasses the entirety of the LGA’s sector-led improvement grant, which includes the national peer review programme and many other activities which focus on leadership, the executive and councils’ corporate health. CfPS is funded from this grant to a value of £171,000 per year (in 2017/18). There is a reporting system direct to DCLG for these funds, and a distinct and more comprehensive reporting system into the LGA. We value our relationship with DCLG but do not feel that a more robust reporting regime for the spending of this grant than already exists would be proportionate. However, we do welcome the opportunity to reflect on how we

can make more transparent to those in the sector how our work makes an impact, and we will think further on this issue before coming to a firm conclusion in the New Year.

This is only a preliminary response – we will be producing some more detailed thoughts on the report in January. In due course we plan to provide a formal response to the Committee, particularly on those points where the Centre and its work are directly referenced.