

13 June 2023

**Time** 6.00 pm **Public Meeting?** YES **Type of meeting** Scrutiny  
**Venue** Committee Room 3 - 3rd Floor - Civic Centre

## Membership

**Chair** Cllr Philip Bateman MBE (Lab)  
**Vice-chair** Cllr Ellis Turrell (Con)

### Labour

Cllr Val Evans  
Cllr Rita Potter  
Cllr Susan Roberts MBE  
Cllr Barbara McGarrity QN  
Cllr Jacqueline Sweetman  
Cllr Qaiser Azeem  
Cllr Jacqui Coogan  
Cllr Anwen Muston  
Cllr John Reynolds

### Conservative

Cllr Wendy Thompson  
Cllr Simon Bennett

Quorum for this meeting is four Councillors.

## Information for the Public

If you have any queries about this meeting, please contact the Scrutiny Team:

**Contact** Martin Stevens DL  
**Tel/Email** martin.stevens@wolverhampton.gov.uk  
**Address** Scrutiny Team, Civic Centre, 1<sup>st</sup> floor, St Peter's Square,  
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# Agenda

## Part 1 – items open to the press and public

*Item No.*     *Title*

### MEETING BUSINESS ITEMS

- 1            **Apologies for absence and substitutions**  
[To receive any apologies for absence and notification of substitutions].
- 2            **Declarations of interest**  
[To receive any declarations of interest].
- 3            **Minutes of the meeting held on 7 March 2023** (Pages 3 - 10)  
[To approve the minutes of the meeting held on 7 March 2023 as a correct record].
- 4            **Minutes of the meeting held on 14 March 2023** (Pages 11 - 22)  
[To approve the minutes of the meeting held on 14 March 2023 as a correct record].
- 5            **Minutes of the meeting held on 2 May 2023** (Pages 23 - 28)  
[To approve the minutes of the meeting held on 2 May 2023 as a correct record.]

### DISCUSSION ITEMS

- 6            **City West Relaunch Grant Scheme - Payments**  
[To consider a report on City West Relaunch Grant Scheme – Payments].  
  
[Report is marked: To Follow].
- 7            **Statutory Scrutiny Guidance and Role of Scrutiny Board** (Pages 29 - 202)  
[To consider a report on Statutory Scrutiny Guidance and the role of Scrutiny Board].
- 8            **Forward Plan of Key Decisions** (Pages 203 - 218)  
[To consider the Forward Plan of Key Decisions].
- 9            **Scrutiny Work programme** (Pages 219 - 246)  
[To consider the first draft Scrutiny Work Programme for the Municipal year. This Work Programme is a work in progress and is subject to change. Agenda planning meetings are taking place over the coming weeks with Members and Officers to refine the programme].

## Attendance

### Members of the Scrutiny Board

Cllr Paul Sweet (Chair)  
Cllr Philip Bateman MBE  
Cllr Val Evans  
Cllr Rita Potter  
Cllr Wendy Thompson  
Cllr Simon Bennett  
Cllr Susan Roberts MBE  
Cllr Zee Russell  
Cllr Ellis Turrell (Vice-Chair)  
Cllr Louise Miles  
Cllr Udey Singh  
Cllr Jacqueline Sweetman

### In Attendance

Cllr Stephen Simkins (Deputy Leader and Cabinet Member for Inclusive City Economy)

### Employees

Martin Stevens DL (Scrutiny Team Leader)  
David Pattison (Chief Operating Officer)  
Charlotte Johns (Director of Strategy)  
Richard Lawrence (Director of Regeneration)  
Lamour Gayle (Head of Customer Engagement and Registrars)  
Lisa Powell (Contact Centre Manager)

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## Part 1 – items open to the press and public

*Item No.*      *Title*

- 1      **Apologies for absence and Substitutions**  
An apology for absence was received from Cllr Barbara McGarrity QN. There were no substitutions.
  
- 2      **Declarations of interest**  
Cllr Stephen Simkins attending in his capacity as Deputy Leader and Portfolio Holder for Inclusive City Economy, declared an interest on the Blue Badge item, as his mother was in receipt of a Blue Badge.

### 3 **Minutes of the meeting held on 24 January 2023**

**Resolved:** That the minutes of the meeting held on 24 January 2023 be approved as a correct record and signed by the Chair.

### 4 **Minutes of the meeting held on 7 February 2023**

**Resolved:** That the minutes of the meeting held on 7 February 2023 be approved as a correct record and signed by the Chair.

A Panel Member stated that he had not received a response to his enquiry in relation to the Bert Williams Café. The Director of Strategy responded that there had been issues with the Café at the Bilston site earning a profit over the last few years. Work was ongoing with key partners on how the site could be repurposed.

The Deputy Leader commented that the space had been repurposed previously for Covid vaccinations.

The Panel Member requested updates on the matter in the future.

### 5 **Blue Badges**

The Contact Centre Manager gave a presentation on the Blue Badge Scheme. There had previously been a report on the Blue Badge Scheme in October of the last year. The presentation covered four areas, application processing performance, Customer Contact and surgery update, Customer Feedback and Service Improvements.

The Contact Centre Manager stated that average processing time had decreased from 32 days for Q1 to 20 days for Q3. The timescale set for processing applications by the Department for Transport was 84 days. 3892 applications had been received between 1 April 2022 to 31 December 2022. 94% (3760) had been processed with applicants receiving an outcome. 3% (110) were waiting for a Desk Based Assessment or Mobility Assessment by an Occupational Therapist. 2% (70) were awaiting further information from the application. 1% (42) applications were at other stages which included awaiting payment, at appeal or waiting for a cheque to clear. From Quarter 1 to Quarter 3 calls had been reduced by 8% and emails had reduced by 47%. 77% of calls were answered in 80 seconds from Quarter 1 – Quarter 3. The noticeable reduction in call and email volumes could be attributed to the reduction in processing time and additional resourcing.

The Contact Centre Manager stated that with reference to the surgeries they were continuing to deliver Blue Badge surgeries in the community as well as from the Civic Centre. There were four surgery locations currently running. The institute in Tettenhall had recently been added as a location. They would use the data and customer feedback to continue to deliver the surgeries where there was a need.

The Contact Centre Manager commented there was now live on the Council's website a step-by-step video guide on how to complete a Blue Badge application with audio and subtitles. An Occupational Therapy Assistant had been in post since 15 November 2022 processing all physical desk-based assessments for the team.

They had appointed two additional Customer Service Officers to the team. Since Gov Pay had gone live in February 2022, 74% (2556) of applicants had paid online.

A Panel Member asked about enforcement and whether people could park in disabled spaces without a Blue Badge. The Contact Centre Manager responded that someone parking in a disabled space without a Blue Badge would face a fine if caught and this was done by the enforcement team. They were also addressing the issue of people misusing Blue Badges, such as people using out of date badges or appropriating another persons badge and using it as their own.

A Panel Member commended the presentation and the improvements which had been made to the Service and the surgeries. He asked about bench marking with other authorities.

The Head of Customer Engagement and Registration responded that the way some authorities set the timescale for Blue Badge processing differed to others, which was why it could be difficult to compare.

The Vice-Chair asked for some more information about how the surgeries worked. The Contact Centre Manager responded that they did pre-book appointment for surgeries, a walk-in was offered for the Institute in addition.

A Panel Member asked for a breakdown of the different types of applications for Blue Badges, such as renewals. The Officers responded that they would provide the information to be circulated after the meeting.

The Chair commented that when the Government asked the Council for where improvements could be made in the application process, it could be suggested that people who were certain to be given a Blue Badge at renewal, should not have to fill in a whole form. It would be better if a shorter renewal form was available.

The Chair thanked the Officers on behalf of the Panel for the presentation.

## 6 **Levelling Up Funding**

The Cabinet Member for Inclusive City Economy gave a statement on Levelling Up Funding. The Council had submitted two strong bids in round 2 of the Levelling Up Funding programme announced by the Government. Each bid had been supported by a Wolverhampton MP. He was really disappointed that the Council had not received funding for either of the bids, he had been shocked by the news. The vision for Wolverhampton would however continue and they would continue to champion the bids. The Council had learnt a couple of weeks before the announcement that there were new criteria for who would receive funding in round 2. Areas that had received funding in round 1 would not receive any in round 2. The Council were still awaiting feedback for the failed bid for the Health and Wellbeing Hub for Bilston. He was critical of the Government process for Local Authorities seeking funding, as had been the Mayor of the West Midlands Combined Authority area.

The Director of Strategy and the Director of Regeneration gave a presentation on Levelling Up and the Funding bids which had not been successful, a copy of the presentation is attached to the signed minutes. They described the nature of the bids that had not been successful. A timeline was provided. The Bilston bid had

taken up 429 hours of staff time and £78,000 had been spent on Consultants costs. The Green Innovation Hub had taken up 390 hours of staff time and £74,000 had been spent on Consultants costs. The majority of the Consultants costs had been met by a grant provided by the Government, but it did not cover all the staff time spent on the bids.

The Director of Strategy commented that the West Midlands were the fourth highest region in terms of funding awarded, out of a total amount of £2.1 billion nationally for round 2 Levelling Up funding. In the West Midlands there had been 8 successful bids with over £155 million being allocated across the region. Feedback as to why the Green Innovation Corridor bid was unsuccessful was received on 21 February 2023. They were in ongoing discussions with the Department for Levelling Up, Housing and Communities. Nationally only two Local Authorities in Northern Ireland had received funding in both rounds. A new rule that had been introduced during shortlisting stated that authorities would not receive any round 2 funding, if they had been successful in securing funding in the first round.

The Director of Strategy remarked that the feedback on the Green Innovation Corridor bid was that it was a relatively strong bid. They said it was:

- Clearly written and took a guidance led approach to appraisal.
- There was clear evidence to support the bid.
- It could have been further strengthened with more detail on consultation and conclusions drawn from engagement, options appraisal and further explanatory notes to support Benefit Cost Ratio calculations, though it was noted the BEIS model was used.
- Could have been strengthened with more information on governance of Joint Venture and timescales to secure match funding, though it was noted that this was early stages and noted expressions of interest.
- There was a satisfactory financial proposal, commercial strategy and delivery plan.
- There was good alignment to national and local strategies, which clearly set out the contribution to Levelling Up missions.

The Director of Strategy stated there would be a round 3 of Levelling Up Funding, but the Council had not yet been provided with any details of timescales. She presented a slide showing where Growth Funds were having an impact in the City's Wards, which had been a previous request from the Scrutiny Board. She also showed slides showing the external funding bids which had been successful or unsuccessful, this included key transport bids.

A Panel Member asked about the prospect of Levelling Up Funding to be used to provide affordable housing for people in the City. The Director of Strategy responded that Good Homes in Well Connected Neighbourhoods was a key part of the Council's Our City: Our Plan. She referred to the potential to bid for funding from the WMCA (West Midlands Combined Authority) to deliver the Council's plans on housing. It was yet to be announced the timescale and criteria for the Government's Levelling Up, round 3 funding.

Members of the Panel expressed dissatisfaction with the extra rule that was added regarding eligibility for round 2 Levelling Up funding, which meant the Council could

not be successful in round 2 bids, as the Council had received round 1 funding. The Council's external Auditors they believed would be interested in the matter.

The Cabinet Member for Inclusive City Economy acknowledged the concern of Members and added that it meant the Council could potentially be more hesitant to apply for funding in round 3 of Levelling Up Funding. He added Belfast had proven to be an exception to the rule, where funding had been awarded in round 1 and round 2. He was only made aware of the new rule officially by Government two weeks before the announcement of the successful bids.

A Member of the Panel asked if Wolverhampton's unsuccessful round 2 bids could be submitted again in round 3. If the bids could not be submitted again she asked where the funding could be obtained from to bring the projects to fruition. She thought it would be useful for the Scrutiny Board to receive information in the future on what other funding streams remained available. The Director for Strategy responded that they would be seeking to clarify what was permissible for round 3 funding. An announcement from the Chancellor was expected on the 15 March 2023, which could potentially contain details about funding streams. The Council would continue to look at funding streams and would report back to Scrutiny Board in the future.

A Panel Member asked for the long list of proposals and the short list of proposals that were considered by the Council to put forward for Levelling Up round 2 funding, to be provided to Scrutiny Board Members. They believed that some of these proposals were not in the spirit of the Levelling Up ethos. He expressed concern about whether there had been appropriate consultation and engagement on the round 2 bids. Culture and heritage he felt did not feature in the final round 2 bids from Wolverhampton.

The Director of Regeneration responded that the long list of proposals was worked on with the local Members of Parliament and was in keeping with the Council's Investment prospectus. He was happy to share the long list and the information which shaped the bids.

A Panel Member commented that the City had in recent times received £1.3 billion from the Government through various funding streams. She felt this was an enormous amount compared to some other places in the country. She felt execution was important, as well as obtaining the initial funding. She praised Walsall for their successful bid, which she felt would benefit Wolverhampton and in particular the Bilston area. She hoped Wolverhampton's round 2 bids would be successful in the future.

The Cabinet Member for Inclusive City Economy spoke highly of the City Learning Quarter project, which had been successful in round 1 and the benefits this would bring to the City.

The Vice-Chair commented that the most important question to ask was whether the right bids had been put forward for round 2, Levelling Up Funding. He was keen for all Members of Scrutiny Board to see the long list of proposals and to understand how the list was devised, including why some did not make the short list. He felt Members could have been asked for their ideas for bids. He referred to Dudley Council who had demanded an inquiry as to why their bids had been unsuccessful.

A Panel Member praised the bid for the Health and Wellbeing Hub in Bilston, which would bring enormous benefits to the area including new jobs and reducing health inequalities. She suggested that the Council could try and claim some of the costs from devising the bids, back from Government, due to the late change in the criteria.

A Panel Member asked about the input the Council had already had on round 3 of Levelling Up Funding with the Government and the WMCA Mayor. He suggested that work needed to take place promptly.

The Vice-Chair suggested that all Councillors should be involved with the planning for Levelling Up round 3. Each Councillor should be asked to provide ideas to ensure the community was represented.

A Panel Member stressed the importance of costings of bid formulation and the timetable for round 3 Levelling up funding proposals.

The Director of Strategy responded that there were no details on round 3 from Government to date. She had taken on board the points about Member engagement. The final say on bids in rounds 1 and 2 were from the local Wolverhampton Members of Parliament who had to sponsor each bid. She did not know if this would change for round 3. The Leader of the Council had written to the Secretary of State to discuss funding.

The Chair asked for any feedback on the unsuccessful Bilston Health and Wellbeing Hub to be shared with Scrutiny Board Members as soon as it was received.

**Resolved:** That the report on Levelling Up Funding be noted.

## 7 **Forward Plan of Key Decisions**

A Panel Member remarked that the Forward Plan of Key Decisions referred to the City Centre Public Realm Improvements Programme. She asked when the programme would be finished with regard to Phase 1 in particular Victoria Street and when Phase 2 was projected to finish.

The Chief Operating Officer responded that details would be provided in the report which was being received by Scrutiny Board on 14 March 2023.

A Panel Member commented that the road works on North Street had been extended until the end of April 2023, which was contrary to what had been reported in the past, in relation to when they would be finished.

## 8 **Scrutiny Work programme**

The Vice-Chair commented that the Scrutiny Work Programme had been very strong for the Municipal year. He commented that better scrutiny led to better decisions, leading to the best outcomes for the City.

The Director of Regeneration stated that a site visit was taking place for the Economy and Growth Scrutiny Panel to the National Brownfield Institute the following week. He offered to arrange a site visit for Scrutiny Board Members and others at a later date.



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**Date of Next Meeting**

The date of the next Scrutiny Board meeting was confirmed as 14 March 2023 at 6:30pm.

The meeting concluded at 7:53pm.

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## Attendance

### Members of the Scrutiny Board

Cllr Paul Sweet (Chair)  
Cllr Rita Potter  
Cllr Wendy Thompson  
Cllr Simon Bennett  
Cllr Susan Roberts MBE  
Cllr Zee Russell  
Cllr Ellis Turrell (Vice-Chair)  
Cllr Barbara McGarrity QN  
Cllr Louise Miles  
Cllr Dr Paul John Birch J.P, BEM. (Substitute)

### In Attendance

Cllr Stephen Simkins (Cabinet Member for Inclusive City Economy)

### Employees

Martin Stevens DL (Scrutiny Team Leader)  
Tim Johnson (Chief Executive)  
David Pattison (Chief Operating Officer)  
John Denley (Director of Public Health)  
Ian Fegan (Director of Communications and Visitor Experience)  
Isobel Woods (Head of Enterprise)  
Peter Taylor (Regeneration Manager)  
Earl Piggott-Smith (Scrutiny Officer)

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## Part 1 – items open to the press and public

*Item No.*    *Title*

- 1        **Apologies for absence**  
Apologies for absence were received from Cllr Phil Bateman, Cllr Val Evans and Cllr Jacqueline Sweetman.

Cllr Thompson advised that Cllr Udey Singh would be late to the meeting as he had been in London. Cllr Simon Bennett would also arrive later in the meeting due to his attendance at a School Governors meeting.

Cllr Paul Birch, JP, BEM was officially substituting for Cllr Jacqueline Sweetman.

- 2        **Declarations of interest**  
There were no declarations of interest.

### 3 **Annual Scrutiny Report May 2021 - May 2022**

The Scrutiny Team Leader presented the Annual Scrutiny Report, May 2021 – May 2022. The Annual Scrutiny report took the format of a newsletter style. 40 official Scrutiny public meetings had been held during the year. For a small team, this was a significant number of meetings to organise. When you removed School Holidays, where the Council tended not to hold public meetings, it averaged out at about one public scrutiny meeting per week. When the current Municipal year was finished, even more meetings would have been held than the previous year.

The Scrutiny Team Leader stated that it was easy to ascertain from the report that excellent scrutiny relied on a One Council approach where all Members and Officers contributed to the function. He thanked all Members and Officers for their engagement with the Scrutiny Team. The report showed a wide range of areas were covered during the Municipal year of May 2021 – May 2022. The year had also saw a Select Committee on the Wolverhampton Pound, which had made over 20 recommendations. The recommendations had been monitored by Scrutiny Board and the Resources and Equality Scrutiny Panel.

The Scrutiny Team Leader commented that the Scrutiny Annual report May 2022 – May 2023 would be written during the Summer with an aim for publication in September. He personally thanked all Members of the Scrutiny Team, old and new for their contribution to the Scrutiny function during the municipal year.

The Chair commended the Chairs of the Scrutiny Panel and the Members of the Panel and Scrutiny Board for their work throughout the Municipal year. He thanked the Officers who had serviced an inordinate large amount of meetings, which included all the administration work before and after meetings, including following up on actions. He asked the Chief Executive to pass on his thanks on behalf of the Scrutiny Board to everyone involved.

The Vice-Chair remarked that the Annual Scrutiny report was one of the most important reports, that the Council produced each year. He felt it was the best Annual Scrutiny report he had seen in terms of its content. Scrutiny was a vital function of any Local Authority in the decision making process. It was right to ask questions and learn from where mistakes had been made. He welcomed the improvements that had been made to the Scrutiny process. He looked forward to the Annual Scrutiny Report for the Municipal year May 2022 – May 2023. He paid tribute to everyone involved in the Scrutiny function.

**Resolved:** That the Annual Scrutiny Report May 2021 – May 2022 be noted.

### 4 **Wolverhampton Investment Prospectus – First Phase Delivery Plan**

The Chief Executive gave a presentation on the Wolverhampton Investment Prospectus – First Phase Delivery Plan, a copy of which is attached to the signed minutes.

The Cabinet Member for Inclusive City Economy gave a statement of his views on the prospectus.

A Board Member asked if the building of St George's Church would be retained and not demolished. The Chief Executive responded that it was a grade two listed

Church and would be retained within any scheme. The building added character to the City.

A Board Member referred to the importance of family homes in the City, it was more than flats which were needed in the City. She wanted more detail on the City Centre West proposals. She referred to the importance of a new hotel in the City. If Broad Street Car Park was replaced, she suspected an underground car park might be constructed. She raised a concern that this could impact on elderly people attending the Theatre. Some people did not like to use underground car parks.

The Chief Executive agreed that a balanced housing offer was required in the City. The Canalside South Scheme by Legal and General was bringing forward 400 units with a mixture of tenures and uses. The Royal Hospital site would also be a mixture of accommodation. Distinct quality that was reflective of the housing market in the City was what the Council was aiming to achieve. The detail would be developed with the developers and they were seeking Cabinet approval to proceed with the approach. He agreed that more hotel accommodation was required in the City and he believed there was a strong demand. They were conscious of a need to deliver a balanced car parking model in the City and if Broad Street Car Park was used for other means, it would require parking elsewhere to compensate for the loss.

A Board Member referred to the visit she had attended to the National Brownfield Institute. She commended the land which had been flattened and was ready to build on. She did express concern in relation to the type of panelling that she had been shown would be placed on the housing for the Canal Side South modular scheme. She suggested a pre-planning meeting to discuss the aesthetics of the housing. The Regeneration Manager responded that there was a pre planning stage coming up. The Council's planners would be challenging L&G (Legal and General) on the uniqueness of the product and ensuring that there was a high quality outcome as part of the process.

The Cabinet Member referred to the excellent relationship the Council had with the architects L&G. L&G would place on any facade that the Council asked within the limit of the modular design. On the matter of hotels he referred to the fact that many hotels were a franchise scheme. It was possible in the future that the Council could ask a developer to build a hotel and then franchise it out. The Council were keeping their options open. The Prospectus gave them the ability to enter discussions with private investors and other Government bodies.

A Board Member referred to the Raddison Hotel on Broad Street in Birmingham which was built and operated by Birmingham City Council. He wanted the Council to have the same vision. He thought the Court House in Wolverhampton would be an excellent place for a four-star hotel in Wolverhampton and would stimulate the night time economy and encourage other hotels to be built.

The Board Member referring to the presentation he had received during the site visit to the National Brownfield Institute commented he had offered advice to the architects, which was to visit the Estate Agents to see what the market wanted. He felt there was a disconnect between what the architects were proposing for the Canal Side South Scheme and the residents of Wolverhampton. Flats were not necessarily what the people wanted. He believed the site could take 240 Homes but not the 380

homes planned. He was also concerned about the lack of car parking in the proposals. He requested the Regeneration Team consider these points.

The Cabinet Member responded that the Council did not own the Court House and there were no proposals for a compulsory purchase order. The proposed housing sites were in or around a transport hub. He wanted to encourage people to use public transport who lived in the City and for those that wished to visit the City from outside the area. L&G were offering mixed tenures. The job of the Council and the Prospectus was to bridge the viability gap. He spoke in favour of hotels being built in different places in Wolverhampton. He would take on the points the Member had made about the style of housing being proposed in Canal Side South.

The Vice-Chair commented that implementation of the prospectus was key. Without delivery it remained just a delivery plan. He cited the shelved West Side project as an example. The West Side project had shown that a residential element was essential to a significant City development scheme. He believed the current hotel offer in the City was presently inadequate. He expressed concern that the CBRE report had questioned the viability of a hotel being able to be built by the private sector alone. Hotel projects had overrun and had gone way beyond original budgets in other places in the country. New hotels were high risk and he questioned why the Council were not looking to improve the existing offer of hotels. He referred to the Britannia Hotel in Wolverhampton which had once been the jewel in the Crown in the City, but was now in a much reduced state. If the Council acquired the hotel there would be an opportunity to turn it into a luxury hotel.

The Chief Executive responded that there was demand for a new hotel in Wolverhampton. The way that hotels were funded though was the problem, which caused the dilemma, which meant there was a viability gap. This either had to be bridged or a time had to be waited for when the situation had changed. The Council did not own the Britannia and there was no basis for the Council to do a compulsory purchase order. Britannia Group were not willing to sell any of their hotels in the UK at the present time. The operating model the Britannia Group had was viable for them as a company, although he did not find it pleasing for the City. Whether the hotel could be converted to modern day standards was a question which had not been answered as no work had been undertaken to address the question.

Members referred to the need to bridge the viability gap for hotels by working with partners. The benefits to the local economy of a newly reopened Civic Halls could not be fully realised without a new hotel.

A Board Member referred to a friend who could not find a hotel room anywhere in the City for less than a £100. He believed new hotels in the City would help stimulate competition and bring prices down. He made reference to what the Council had done with the i9 and the i10 for Office space and wanted to see this repeated for hotels.

A Board Member spoke in support of the L&G modular building design in contrast to views held earlier in the evening. He did not believe they were designed for people who needed to park cars on the drive. He felt they were designed for younger commuters. Solutions were vital to ensure the plan could be delivered.

The Chief Executive understood the frustrations Members had communicated about delivery. Time was needed and there were difficult market circumstances at the present time. The plan was however focused on delivery. He referred to the success of the i9 and i10 in the delivery of Class A Office space, which no developer had considered before the Council involvement. It had set the benchmark for Office rates in the City. This meant any future Office space would be viable as there was now a benchmark. He hoped private and public funds could unlock a new hotel scheme which would stimulate future hotel development. He felt due to the demand it was not as risky as some people felt.

A Board Member referred to empty office space in the City Centre and in particular the Mander Centre, which the West Midlands Pension Fund had vacated to occupy some of the space at the i9. He asked why this office space was not being utilised. Whilst he understood that the Council would have to fund some of the projects he stressed it could not be unlimited funding.

The Chief Executive responded that the plan was enabling discussions to take place with partners, it was not committing funding and certainly not blank cheques. It was enabling the work to take place, which would ultimately lead to a set of propositions that could be put forward to the Council. The West Midlands Pension Fund had moved as their office space in the Mander Centre was not fit for purpose. There was a challenge in how the space was repurposed when it was no longer suitable for its original use of Office space.

The Cabinet Member added that there was potentially opportunity to turn the office space at the Mander Centre into residential or even a hotel.

A Board Member stressed the need to move forward and mitigate risk where the Council was able to do so. Some risk would be needed in order to move forward for a vibrant City.

**Resolved:** That the comments by Scrutiny Board Members be noted for future consideration by the Executive at the appropriate time.

## 5 **Public Realm - Support for Businesses**

Several Members raised objections to the report being received on the evening of the meeting, just after 5pm. The Director of Communications and Visitor Experience apologised for the late report. Officers wanted to provide as much information as possible and had wanted to wait for the meeting that had taken place with Traders the evening before. They had also had to seek the permission from RSM to share some of the information that had been provided to them in their full report.

The Cabinet Member for Inclusive Economy also offered his apologies for the late report, which he believed had been necessary because it had been important to meet the Traders on the evening before to share the information with them first. It had been an intense piece of work which required careful legal considerations.

The Vice-Chair raised concerns about to follow reports and asked it to be noted that he did not want this to be an ongoing issue.

There was an exchange of views about the quality of engagement with traders that had taken place.

A Board Member commented that for future projects of a similar nature it was important to have better planning on how the traders were communicated with and the support they were offered.

The Head of Enterprise gave a presentation on Victoria Street Business Support. She presented a summary timeline which started in May 2022 and ended on 13 March 2023. RSM had been appointed to review the previous scheme and make recommendations for improvement for Council consideration and decision. Their review had taken place between 3 January and 17 February 2023, with their final report being received on Friday, 3 March 2023. It had been acknowledged that in the Council's view, there was no legal requirement on the Council to provide support.

The Head of Enterprise stated that the RSM report had made the following points: -

- Whilst a reduction in turnover was often a good indicator of a loss of trade, any support should be based on the loss of profits, a business had suffered as a result of a loss of trade caused by the works.
- The financial review was unlikely to have captured the true loss position, as it focussed solely on the fall in turnover of a business.
- Businesses needed to be individually assessed, to understand the nature of the business and how the work may have affected their operations of loss of profit.
- The periods used in the financial review were not adequate to assess the loss of trade and profits, noting that there was no one size fits all approach to a loss of profits methodology.
- It was unclear how the financial information provided by the traders through the process had not been verified.

The Council were considering two options. The first one involved the consideration of five criteria:-

1. Eligibility Criteria.
2. Evidence to be provided.
3. Validating information.
4. Examining evidence and calculating the loss.
5. Calculating disruption payments.

The Head of Enterprise described in detail how each of the five criteria would work in practice.

The Head of Enterprise presented details on Option 2, this was a more accessible, generic business support 'relaunch' grant based on less complicated key criteria. The overall aim of this was to minimise bureaucracy and therefore the impact of the process on business and the Council, and to deliver the resulting financial support to businesses in the next few weeks / months. It would maximise the benefit to local



businesses and deliver value for money for the public purse. It would be a fixed one-off payment for those businesses who had engaged with the scheme and provided information. It would be enhanced by a wider programme of support including events to drive footfall and business advisor support.

The Head of Enterprise stated the process would supersede all previous exercises, although where a business had already received a goodwill gesture it would be deducted from any new sum payable through the process. In order to qualify for the grant, businesses had to have the following criteria:-

1. Currently be in business, open and actively trading and impacted by the works in Victoria Street or the accelerated Phase 3 works and undertaken during Phase 1.
2. Be a local / independent Business – employ less than 250 and not part of a larger organisation or parent company.
3. Sign a grant agreement that includes, but not limited to:-
  - That the payment is final and legally binding.
  - Agreement that any business rate arrears would be offset before any grant was paid over.
  - Confirmation that the business is not subject to any pending or active insolvency proceedings and intends to operate as a going concern for the foreseeable future.
  - Confirmation from the business that any grant award would not breach subsidy control levels (although unlikely to be relevant due to low Rateable Value levels).
  - Commitment that intending to remain open for business at the current location for the foreseeable future.
4. Businesses will be required to provide their latest utility bills and also their latest bank statement to demonstrate that the business is open and actively trading to accompany their signed grant agreement.

The Head of Enterprise commented that most businesses would benefit, although the amount payable needed to be affordable within Council funds. Due diligence checks would be in place to ensure the Council met the Council's audit and finance regulations. She remarked that the two options had been shared with the Traders group on Monday, 13 March. The Traders were planning to meet to discuss with their network. Council Officers had offered to then meet with the wider group to answer any questions on options and timelines. The Council would then agree the funding allocation with legal and finance so that it was proportionate, appropriate and affordable, noting that it was taxpayers money and the Council had no legal obligation.

A Board Member suggested option 2 was the best choice as option 1 was effectively subjecting a company to a full audit. He suggested potentially a business rates holiday could be something which the Council could consider. The second thing he suggested was a contribution towards their rent. Another potential option was for the Council to offer match level funding. He said the Council could potentially even consider writing off any debts the businesses owed to the Council.

A Board Member referred to online shopping and the real impact this had on businesses in the City Centre.

A Board Member asked if option 2 would include businesses which started up during the period of the works. She asked who ultimately decided which option would be used, she was aware the Traders were being asked for their views. The Director of Communications and Visitor Experience responded it was ultimately a decision for the Cabinet Member.

The Cabinet Member asked for the support of Scrutiny Board for a support package. He referred to the numerous times the Public Realm had been discussed at other Scrutiny meetings.

The Vice-Chair commented the communication with the Traders had not been as it should have been from the start of the project. Whilst the Council had acknowledged the impact of the works on the businesses, the Council had not been willing to offer an apology for the impact it had on them. He felt an apology should have been offered. He referred to businesses which had ceased trading and others which had left the City. He asked if any support package would be extended to the businesses on Lichfield Street when works commenced there. He asked for more details about who had attending the meeting the evening before.

The Director of Communications and Visitor Experience stated he would ask for an update on the Lichfield Street plans from the Director of Resident Services, who had been unable to attend the meeting. Five Members of the Traders Group had attended the meeting on the evening before and some apologies had been received. There was also direct email contact with some of the other Traders. They would be going direct to each business on Victoria Street about the options.

A Board Member referred to the impact of the cost of living on retail habits, which meant there were other considerations to take into account other than the public realm works when assessing the impact on businesses. Other Members made reference to increased overhead costs such as lighting and heating.

A Board Member commented that some Wolverhampton residents were choosing to shop in Shrewsbury, Telford and Birmingham instead. These areas did not seem to be experiencing the problems of Wolverhampton City Centre. She referred to the critical comments that had been made on Social media about the public realm works and the impact on businesses.

**Resolved:** That,

- a) The principle of offering business support to the traders on Victoria Street be supported.
- b) A report be received by Scrutiny Board as to which business support option, for the businesses on Victoria Street, is finally chosen by the Council and implemented.

- c) The report should include details on how many traders responded as to which option they would like the Council to choose. This is to ensure that all 52 businesses are given an opportunity to respond.

## 6 **Scrutiny Work programme**

The Vice-Chair stated that it had been a good year for Scrutiny Board. He thanked colleagues for the support given for the meetings throughout the year.

## 7 **Home Office Asylum Policy**

The Chair stated that the Home Office Asylum Policy item had been requested by the Vice-Chair of Scrutiny Board. The presentation was to provide information and clarity on the Home Office Asylum process for any individual arriving in the UK claiming refugee status. It also provided details of current Government policy and the steps taken by Wolverhampton Council to influence it. A copy of the presentation, is attached to the signed minutes.

Government policy was based on the Immigration Asylum Act 1999 and Asylum Support Regulations 2000. The UK had a statutory obligation to provide destitute asylum seekers with temporary accommodation, transportation and money whilst the application was considered. A person or persons could claim asylum in the UK if they feared persecution from their home country and they had failed to get protection from authorities within their country. Persecution had to be because of the following reasons:-

- Race or religion
- Nationality
- Political Opinion
- Anything else that put a person at risk because of social, cultural, religious or political situation in a person's home country.

The Director of Public Health stated that not every asylum seeker would ultimately be recognised as a refugee, but every refugee was initially an asylum seeker. Those entering on resettlement schemes had different rights. There were a number of different resettlement schemes including Ukraine, Afghan relocation, other resettlement schemes (such as Hong Kong) and Asylum seekers outside of these schemes.

The Director of Public Health reported that Serco held the Asylum Accommodation and Support Service Contract with Central Government and covered the West and East Midlands, the Northwest and parts of the East of England. Serco provided Housing Officers who supported Asylum seekers within hotels and dispersed accommodation, to signpost a range of services, such as GP registration, education, social prescribing and translation. Migrant Help were the Central Government's contracted provider under the Advice, Issue Reporting and Eligibility Contract and provided advice and assistance to people seeking asylum in understanding the asylum support system, across the UK. He presented a flow chart showing the arrival routes and the process following arrival.

The Chief Operating Officer commented that the challenges Wolverhampton had faced were the same as many other Local Authorities when it came to asylum seekers. The Council, along with many other Local Authorities and the Local Government Association had been engaging with the Home Office for many years to try and improve the way it carried out asylum policy. In September 2021, after the Home Office had not made any changes to the dispersal policy, 7 Local Authorities led by City of Wolverhampton Council, had commenced a Judicial Review of the Home Office's previous approach to the dispersal of asylum seekers. There were two key areas that the Judicial Review focused on:-

- A fairer distribution of asylum seekers across the Country.
- A fairer funding settlement for those areas that had asylum seekers to ensure that they had the support they needed without unfunded burden on those authorities.

The Home Office's previous position was that it would only place dispersed asylum seekers in voluntary areas. This was Local Authority areas that had at some historical point agreed to take asylum seekers. The seven Local Authorities withdrew their voluntary consent in 2021. The Home Office refused to accept the withdrawal, which was the reason for the Judicial Review proceedings commencing. The Judicial Review took place between September 2021 and May 2022 and led to the Home Office changing its policy. Every Local Authority area was now classed as a dispersal area. They had also agreed to put in place additional funding for the 2022/2023 financial year in respect of those asylum seekers dispersed into each area. The Council and other Local Authorities were seeking evidence to demonstrate the commitments made by the Home Office to the High Court were being met.

The Chief Operating Officer remarked that implementation by the Home Office of the changes to the policy of dispersal was still taking place and therefore a definitive position could not be stated. Critically Serco were engaging with all West Midlands Local authorities to procure against the Full Dispersal Plan. The Government was currently proposing changes to the current system through a new Migration Bill.

The Chief Operating Officer stated that as of December 2022 there were over 100,000 asylum seekers in the UK. Wolverhampton currently housed 350 individuals in initial accommodation (Hotels) under section 98. 820 individuals were in dispersed accommodation under section 95 or section 4. There were a high amount of asylum applications in the UK currently, the applications were managed by the Home Office. Discussion and engagement with the Home Office were critical when placing asylum seekers in Wolverhampton.

The Vice-Chair asked if the Council could do more to challenge the Home Office. He made reference to a case in Great Yarmouth, England. The High Court Judge had granted an interim injunction to block the Home Office from using Hotels to house Asylum seekers, due a policy which didn't permit a change in use of hotels. He questioned whether any new hotels built in Wolverhampton could have such a policy. In Dudley, a hotel had been planned to house asylum seekers, but opposition from residents and politicians had led to the plan being shelved.

The Chief Operating Officer responded that there had been a number of cases brought by Local Authorities to try and prevent the use of hotels for asylum seekers

based on planning policy. With the exception of Great Yarmouth, which was only a temporary injunction at present, they had all failed. The case in Great Yarmouth was still to go to full trial. He was aware of cases where the use of hotels for asylum seekers had been dissuaded by informal means and this had happened in different parts of the country. There had also been some cases where the hotel operator had not reached an agreement with Serco and therefore the hotel had not been used for asylum seekers. The Council had engaged with the Home Office on a regular basis.

The Director of Public Health referred to the importance of hotels complying with the specifications from the Home Office. They had found in the past that there had been a disconnect with the management of the contract from the Home Office and the delivery of the contract by Serco. Much partnership work had taken place in Wolverhampton to set the operations with Serco. This had led to real benefits.

A Member referred to the European picture and historical aspect of accepting asylum seekers.

The Board at 9:25pm unanimously resolved to extend the meeting by up to 30 minutes in line with the requirement in the Council's Constitution.

A Board Member commended the work of Officers and in particular the work they had done with the Home Office.

A Board Member referred to the pressure on local services and the difficulties this could bring in the community, it was important for the Home Office to understand the pressures. She understood that 300 properties were being used by Serco in the City, which added a further pressure to Wolverhampton residents who were seeking housing. Whilst it was important to be welcoming and hospitable, dispersal policy was important.

A Board Member asked about the impact assessments that had taken place at a local level and whether this was factored into any financial support the Council received. He asked if the Council knew the costs for looking after asylum seekers in the City. Nationally and regionally, the City were amongst the highest for receiving asylum seekers. The system needed to be fair and the Council needed to defend its position.

The Director of Public Health responded that it was hard to quantify the absolute costs. Partnership working helped to manage the risk of impact on services. Preventative measures helped to prevent some long term costs. He cited health screening as an example, which initially Serco had not done.

A Board Member commented that he hoped regular contact with Serco would continue. The Director of Public Health assured the Board that regular contact was being made.

The meeting closed at 9:40pm.



## Attendance

### Members of the Scrutiny Board

Cllr Paul Sweet (Chair)  
Cllr Philip Bateman MBE  
Cllr Val Evans  
Cllr Rita Potter  
Cllr Wendy Thompson  
Cllr Susan Roberts MBE  
Cllr Zee Russell  
Cllr Ellis Turrell (Vice-Chair)  
Cllr Barbara McGarrity QN  
Cllr Louise Miles  
Cllr Udey Singh  
Cllr Jacqueline Sweetman

### In Attendance

Cllr Stephen Simkins

Deputy Leader: Inclusive City Economy

### Witnesses

Bilivir Chander Kumar  
Esme Sackhouse

Westside Traders Group  
Westside Traders Group

### Employees

Earl Piggott-Smith  
David Pattison  
Ian Fegan

Scrutiny Officer  
Chief Operating Officer  
Director of Communications and External  
Relations  
Director of Regeneration  
Head of Strategic Transport  
Director of Resident Services  
Programme Manager – Connected Places

Richard Lawrence  
Marianne Page  
John Roseblade  
Ruth Taylor

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## Part 1 – items open to the press and public

*Item No.*     *Title*

- 1**     **Apologies for Absence and Substitutions**  
Apologies for absence were received from Cllr Simon Bennett.
- 2**     **Declarations of interest**  
There were no declarations of interest.

3 **City West Grant Relaunch Scheme - Payments**

The Chair welcomed everyone to the extraordinary meeting of the Board and advised it was being live streamed using the Council's website. A recording of the meeting would be available for the viewing after the meeting has taken place.

The Chair reminded everyone in attendance that the Council was in a pre-election period and care should be taken to avoid during debates showing any bias or support to any candidate or political party which could impact on public perception or voting intentions.

The Chair advised that if the debate moved into areas of either criticism of an individual Councillor and or a political party then the Chief Operating Officer will ask for the broadcast of the meeting to be paused and decision taken about future proceedings.

The Chair welcomed Bilivir Chander Kumar and Esme Sackhouse as representatives of Westside Traders Group to contribute to the discussion on the agenda item City West Grant Relaunch Scheme.

The Chair invited David Pattison, Chief Operating Officer, to comment on the meeting proceedings.

The Chief Operating Officer advised the Board that the forthcoming election did not mean that Councillors could not engage in a robust debate but reminded everyone that the meeting should not be used to publicly support and or endorse any election candidate or to promote their own candidacy. The meeting should focus on the report City West Grant Relaunch Scheme for comment and discussion.

The Chair invited the Vice Chair to briefly explain the reasons for calling an extraordinary meeting of the Board and listed the running order of speakers for the meeting.

The Vice Chair advised the Board of the reasons for wanting to review the Cabinet's urgent decision as regards the amount of £5,000 offered to eligible businesses affected by the pedestrianisation works on Victoria Street and surrounding streets in the city centre. There were also concerns about new grant scheme offer following publication of the documents related to the urgent decision.

The request to call an extraordinary meeting of the Board met the conditions detailed in the Council's Constitution.

A Board member asked for further details about the reasons for wanting an extraordinary meeting to better understand the 'urgency' of the issue and the timing of the meeting before the election, while accepting the importance of the issue to the traders affected by the redevelopment work.

The Vice Chair commented that as the decision was made under urgent powers it warranted the need to have an urgent meeting of the Board to scrutinise the reasons for this decision.

The Chief Operating Officer accepted that it is unusual for a meeting of the Board to be held at short notice just before an election.



The Chief Operating Officer added that legal advice was sought from a KC about if a meeting could be held in such circumstances. The advice was that as the basis of the decision was that it was a decision made under urgent action powers then a meeting would need to take place immediately before the election date.

The Chief Operating Officer advised the Board that the Council followed the advice of the KC in arranging the date of the meeting before the election.  
The Board thanked the Chief Operating Officer for the information.

The Chief Operating Officer added that the decision was also made in response to representations from traders who considered the amounts proposed under the scheme were not adequate when considering the level of financial hardship experienced because of the pedestrianisation work.

The Chair invited Richard Lawrence, Director of Regeneration, to present the report.

The Director advised the Board that the briefing notes sets out the rationale for determining the level of the business support grant payment offered to City Centres traders who may have been affected by improvement works funded by £15 million investment from the Future High Street Funds.

The Director gave a short presentation of the key points in the City West Grant Relaunch Scheme briefing note, which detailed the legal and financial considerations and key dates in the decision-making timeline.

The Director commented on the level of funding provided by the Future High Street Fund improvement works to transform the physical environment of the area as part of a wider strategic redevelopment plan for the city centre.

The Director advised the Board that the briefing paper was drafted in response to the challenge from the City Centre West traders about the level of grant payment proposed in the urgent decision made on the 31 March 2023.

The Director advised the Board that the current position is that 21 applications have been received for the city centre grant reward scheme. The Director added that 20 of these applications are being processed and seven applications have been approved and five traders have received a payment of £5,000 pounds each.

The Chair invited Steve Simkins, Cabinet Member, to make some introductory comments before the Board discussed the report.

The Cabinet Member commented that the issue of grant scheme to traders has been presented to scrutiny members to review on five different occasions since September 2022. The Cabinet Member queried the reason for the requesting an urgent meeting as there was already a previous commitment following the Scrutiny Board meeting 14 March 2023 to present an update report on the scheme to a future meeting.

The Cabinet Member advised the Board that there is no legal requirement for the Council to provide financial support to businesses affected the development work and listed examples of similar work in other authorities where no funds were offered

to businesses whose trading was affected by large scale improvements to the public realm.

The Cabinet Member commented on the consultations with traders over the previous 12 months and the changes made to the scheme over time in response to concerns about the eligibility criteria and the level of the financial support.

The traders supported Option 2 that was proposed in the report presented to the Board on 14 March 2023 for comment. The Cabinet Member advised the Board that the deadline for submitting applications to the current scheme has since been extended to 31 May 2023 to allow more time for applicants to prepare. The Chair invited Bilivir Chander Kumar and Esme Sackhouse, as representatives of Westside Traders Group, to present their evidence to the Board.

Bilivir Chander Kumar presented a detailed timeline of meetings with Council officials and the Cabinet Member since December 2021.

Bilivir Chander Kumar expressed concerns about long delays in responding to requests from Council officials and the Cabinet Member for information and non - attendance at meetings about the timescale and extent of pedestrianisation works on Victoria Street and surrounding streets.

Bilivir Chander Kumar expressed further concerns about the overall approach of the Council when consulting with traders since December 2021 highlighting the lack of consultation with individual businesses about the impact on businesses of the redevelopment scheme before work began. In addition, there were concerns about the way traders were informed about changes to the scheme, the eligibility criteria, the process for applying for financial support and the tight deadline for submitting applications.

A Board Member expressed concern that they were not aware of the issues raised by the representatives of the traders and proposed a motion that the discussion on the report be deferred to a further meeting. A Board Member added that this would allow for the issue to be properly considered by members who could then make more informed comments in response to the concerns of trader representatives about key decisions relating to the scheme.

The motion was seconded, and it was suggested that witnesses named in the evidence by the trader representatives should be asked to attend the meeting to respond directly to the concerns raised.

The Board debated the proposed motion and Chief Operating Officer was asked to advise on whether any proposed adjournment to the debate was lawful in a situation where presenters had not finished giving their evidence.

The Chief Operating Officer confirmed the process for presenting a motion to the Board had been correctly followed and advised that an adjournment would be lawful if there is good reason for that decision to be made.

The Chief Operating Officer recommended to Board that the motion should be withdrawn to allow the representatives to present their evidence in full and then if having considered information there would be option then to re-submit the motion to adjourn the meeting.

A Board Member commented on the resolution from the previous meeting where it was agreed that a further report on the progress of the rollout of the scheme would be presented at a future meeting.

In addition, it was agreed that the report should include the responses of the traders to the scheme.

A Board member queried the reason arranging the meeting at short notice in view of this decision.

The Board further debated the proposed motion and differing views were expressed.

The Chair accepted the advice of the Chief Operating Officer and recommended that the representatives of the traders' groups be allowed to present the rest of their evidence to help inform what, if any, additional information is needed and then to consider re-submitting the motion for an adjournment at the end. This advice and recommendation was then accepted by the Board.

The representatives presented their evidence to the Board.  
The Chair thanked the presenter for their presentation.

A Board member resubmitted the motion for the meeting to be adjourned and a new date set to present all the information for further decision. The motion was seconded, and the majority voted in support.

Esme Sackhouse queried the timeframe for agreeing a date for the meeting to reconsider the information. The Chair commented that the intention would be to have the meeting date agreed as soon as possible before the deadline for applications to be submitted of 31 May 2023.

The Cabinet Member commented that to allow time for the all the relevant information and witnesses to prepare their evidence that the deadline for applications to the scheme would be extended. In addition, the Cabinet Member agreed to provide copies of reports, minutes and email correspondence between the Council and the traders about the scheme to allow Board members to have a fully informed discussion about the issues raised during the meeting.

The Chair thanked everyone for their contributions and closed the meeting.  
Resolved:

1. The Board to receive a further report at a date to be agreed to consider all relevant documentary evidence relating the City West Grant Relaunch Scheme and discussions with representatives of the Westside Traders Group.
2. The Board to invite, named Council employees and the Cabinet Member to give evidence in response to the concerns highlighted by representatives of the Westside Traders Group about the City West Grant Relaunch Scheme.



# Briefing Note

**Title:** Statutory Scrutiny Guidance and Role of Scrutiny Board      **Date:** 1 June 2023  
**Prepared by:** David Pattison      **Job Title:** Chief Operating Officer

**Intended Audience:**      Internal       Partner organisation       Public       Confidential

## 1.0 Purpose

- 1.1 To provide Scrutiny Board with a recap on the Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities that was issued by the Government in May 2019 as a reminder for the new municipal year on the approach to scrutiny at Wolverhampton, and as context for an upcoming review of the constitution to ensure Wolverhampton is adhering to good practice.
- 1.2 To provide Scrutiny Board with a recap on the scrutiny procedure rules in the Councils constitution, with a particular focus on the role of Scrutiny Board.
- 1.3 To provide Scrutiny Board with an update on the work underway to review the constitution in line with Scrutiny good practice such as refining the call-in procedure rules.

## 2.0 Background

- 2.1 The Statutory Scrutiny 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. 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.
- 2.2 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.
- 2.3 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.
- 2.4 The Centre for Governance and Scrutiny published, The Good Scrutiny Guide, to complement the statutory guidance.
- 2.5 The Council's constitution is currently being reviewed and to ensure that there is an effective governance framework in place to support decision making. The Centre for Governance and Scrutiny have recently published guidance on reviewing constitutions where they recommend regular reviews proportionately. There are areas of the constitution in relation to scrutiny that have not been reviewed for some years. Therefore, research has been undertaken into good practice such as the recently published Centre for Governance and Scrutiny guidance on call

in's. Both reports can be found in the background papers section. The next constitution update report is scheduled to be taken to Governance and Ethics Committee on 6 July, and this will be shared with both groups prior for comment.

### **3.0 Statutory Guidance on Scrutiny**

#### **3.1 What is Effective Scrutiny?**

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.

3.4 The guidance states that all members and officers should consider the role the scrutiny committee plays to be that of a 'critical friend' not a de facto 'opposition'.

### **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.

#### **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.

5.2 Lack of support and engagement with scrutiny will often lead to poor quality and ill focused work. 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.

**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.

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 Training**

8.1 The council will be inviting all scrutiny members to attend the following two training courses over the summer offered in accordance with the Statutory Scrutiny Guidance and delivered by Link Support Services and by a trainer who is a governance professional as well as a former councillor.

**Best Practice Scrutiny Training Course**

This session is equally suited to new and returning members. It is both a motivating introduction to scrutiny and a valued refresher for experienced scrutineers. It aims to demonstrate the true potential of scrutiny and help to make a beneficial difference to the lives of the communities of Fenland. Thought provoking, challenging and motivating from a veteran trainer of councillors.

This course can include the following elements:

- How does scrutiny link to our purpose as councillors?
- What powers do we have?
- Where are the 'rules' on scrutiny and what are they?
- What are the key characteristics of good practice scrutiny – and how do we make it happen?
- What are the common errors made by scrutineers and how do we avoid them?

### **Committee Scrutiny Training Course**

This session assists members to prepare, participate and 'add value' in the scrutiny committee environment.

**This course can include the following elements:**

- What does it mean to be efficient and effective in a scrutiny **Committee** environment?
- How can scrutiny members assess whether their individual or committee performance is efficient and effective AND make improvements?
- What should we be aiming to achieve in the scrutiny committee environment?
- Key tips and techniques to achieve **added value** and to make a difference through committee scrutiny, including **effective recommendations** and
- how to avoid some of the 'deadly sins' of committee scrutiny.
- The session will also include real case studies and the opportunity for members to consider **questioning strategies** to improve their effectiveness.

## **9.0 Creating an Executive-Scrutiny Protocol**

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.

## **10. Background papers**



Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities, Ministry of Housing, Communities and Local Government, May 2019: [Title \(publishing.service.gov.uk\)](#)

The Good Scrutiny Guide, Centre for Governance and Scrutiny, June 2019: [The Good Scrutiny Guide - Centre for Governance and Scrutiny \(cfgs.org.uk\)](#)

The review and redrafting of constitutions: guidance for English authorities, Centre for Governance and Scrutiny, May 2023 [The review and redrafting of constitutions: guidance for English authorities - Centre for Governance and Scrutiny \(cfgs.org.uk\)](#)

The use of call in: guidance for English authorities, Centre for Governance and Scrutiny, May 2023: [The use of call-in: guidance for English authorities - Centre for Governance and Scrutiny \(cfgs.org.uk\)](#)

Councils constitution of 2 November 2022: [Agenda for Constitution on Wednesday, 2nd November, 2022, 10.00 pm :: Wolverhampton City Council \(moderngov.co.uk\)](#)

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# Statutory Scrutiny Guidance and Role of Scrutiny Board

13 June 2023

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Presenter:

**David Pattison**

Chief Operating Officer

## Purpose of todays briefing...

- Recap on Statutory Scrutiny Guidance
- Discuss role of Scrutiny Board
- Discuss proposed changes to the Constitution – Scrutiny Procedure Rules within the Constitution

# Statutory Scrutiny Guidance

## **Statutory Scrutiny Guidance**

Published by Government in May 2019 to ensure that local 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.

## **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

**Most crucially, it should be more than just holding the executive to account, it 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.**

# Culture

## Identifying a clear role and focus

- Prioritisation is necessary because Scrutiny has the power to look at anything which affects the area or its inhabitants, but such a generalised approach is not effective.

## Early and regular engagement between the executive and scrutiny

- Early discussion should take place especially regarding the executives future work programme. Executive should not try and exercise control over work of scrutiny. Chair of scrutiny committee should determine the extent of an exec members participation in a scrutiny committee.

## Managing disagreement

- An ‘executive-scrutiny protocol’ can help to provide a framework for disagreement and debate. Scrutiny has power to call in decisions – should not be viewed as a substitute for early involvement in decision-making or as a party political tool.



## **Performance monitoring and to access information**

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. Access to this information reduces the number of unfocused and unproductive questions.

## National and regional matters

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.

## **Executive-Scrutiny Protocol**

It is recommended as good practice that an Executive-Scrutiny protocol would provide clarity regarding the expectations of scrutiny members, executive members and officers of the authority.

## Planning work

- 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.
- 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 do we best carry out the 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?

## Training

- Authorities should ensure committee members are offered induction when they take up their role and ongoing training so they carry out their responsibilities effectively.
- Recommend that all Scrutiny Members attend two seminars by Link Support Services over the summer:
  - Best Practice Scrutiny – useful for new members and also as a refresher for experience scrutiny members
  - Committee scrutiny – assisting members to prepare, participate and ‘add value’ in the scrutiny committee environment.
- The Scrutiny Team and Organisation Development Team will be in contact with Councillors about dates for these courses in due course.

# Role of Scrutiny Board

## Purpose of Scrutiny Board

- The Centre for Governance and Scrutiny Good Practice on Scrutiny Guide (Section 3) strongly recommends that 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.
- Many councils in the country do not have a Scrutiny Board equivalent – instead they have the various scrutiny panels, but the majority of the West Midlands Met Councils do have a Co-ordinating Scrutiny Committee.
- Scrutiny Board is the overarching Scrutiny Committee over all other 6 panels. It is recommended that more formal reporting mechanisms are in place for Scrutiny Panel Chairs to report back to Scrutiny Board.

# Remit of Scrutiny Board

- It will be recommended to Governance and Ethics Committee that Scrutiny Board's responsibilities are strengthened in Article 7 of the constitution to place more emphasis on its co-ordinating role in determining the most suitable scrutiny panel for a particular agenda item to be looked at.
- The proposed remit for Scrutiny Board is below:
  - Major infrastructure projects that crosscut Scrutiny Panels
  - West Midlands Combined Authority interface and the work of their Scrutiny Committee. Interface for the purposes of Scrutiny Board is defined, as including the relationship and interactions the Council has with the Combined Authority, particularly strategy and policy impacting on Wolverhampton.
  - MTFS
  - Overall performance
  - Our City, Our Plan, the council's strategic framework for levelling up
  - Pre-Decision – If an item needs to come for pre-decision, which cannot go to the relevant Scrutiny Panel for logistical reasons such as timing or the agenda already being at capacity, then Scrutiny Board can instead consider the item. Some pre-decision items may always need to come to Scrutiny Board such as the MTFS.
  - Call-in
  - Petitions
  - Wolverhampton Pound
  - Oversight of Select Committee Work – reporting on outcomes. Scrutiny Review Groups and Select Committees should clearly state in their terms of reference if they should report to the parent Scrutiny Panel or Scrutiny Board. To avoid duplication, it should not be both.
- Based on the agenda items on the work programme from 2022-23, Major Infrastructure projects that cross-cut Scrutiny Panels has been added to the Boards remit to avoid future duplication of items.



# Constitution Review - Scrutiny

## Call-in

- Chair of Scrutiny Board has requested that the Monitoring Officer work on call-in guidance.
- 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 changed (to be regarded as a measure that is needed in exception circumstances).
- Currently the decision to call-in can be made by any of the following:
  - Chair of the Scrutiny Board
  - Vice-Chair of the Scrutiny Board
  - Leader or Deputy Leader of the main opposition group.
- As good practice and for consistency in approach across the region, it will be recommended that this be changed to at least three members who are not members of the cabinet. A call-in request form will also be produced to assist members with preparing all of the necessary information to call in a decision.

## Agenda Setting

- The current constitution allows for any Scrutiny member to request an item be included on the next available agenda.
- Taking the Statutory scrutiny guidance on prioritisation in to account, it is not always practical to consider every requested agenda item within the scrutiny work programme.
- Therefore it will be recommended that all agenda item requested go through the Chair/Board/relevant panel to determine if the request for the item is reasonable, practical.
- Thought should be given to the key questions set out in the statutory scrutiny guidance on determining the suitability of an item to be added to the work plan.
- Consideration must also be given to if the agenda item has recently been looked at by another panel and what additional value can be added from reviewing it again at this time.

## Next steps

- To received feedback on the information provided.
- The constitution update report will be shared with both groups prior to being taken to Governance and Ethics Committee.
- The constitution update report will be taken to Governance and Ethics Committee on 6 July 2023.



Ministry of Housing,  
Communities &  
Local Government

# Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities



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# Ministerial Foreword

The role that overview and scrutiny can play in holding an authority's decision-makers to account makes it fundamentally important to the successful functioning of local democracy. Effective scrutiny helps secure the efficient delivery of public services and drives improvements within the authority itself. Conversely, poor scrutiny can be indicative of wider governance, leadership and service failure.

It is vital that councils and combined authorities know the purpose of scrutiny, what effective scrutiny looks like, how to conduct it and the benefits it can bring. This guidance aims to increase understanding in all four areas.

In writing this guidance, my department has taken close note of the House of Commons Select Committee report of December 2017, as well as the written and oral evidence supplied to that Committee. We have also consulted individuals and organisations with practical involvement in conducting, researching and supporting scrutiny.

It is clear from speaking to these practitioners that local and combined authorities with effective overview and scrutiny arrangements in place share certain key traits, the most important being a strong organisational culture. Authorities who welcome challenge and recognise the value scrutiny can bring reap the benefits. But this depends on strong commitment from the top - from senior members as well as senior officials.

Crucially, this guidance recognises that authorities have democratic mandates and are ultimately accountable to their electorates, and that authorities themselves are best-placed to know which scrutiny arrangements are most appropriate for their own individual circumstances.

I would, however, strongly urge all councils to cast a critical eye over their existing arrangements and, above all, ensure they embed a culture that allows overview and scrutiny to flourish.



A handwritten signature in blue ink, appearing to read 'Rishi Sunak'.

**Rishi Sunak MP**  
**Minister for Local Government**



# About this Guidance

## Who the guidance is for

This document is aimed at local authorities and combined authorities in England to help them carry out their overview and scrutiny functions effectively. In particular, it provides advice for senior leaders, members of overview and scrutiny committees, and support officers.

## Aim of the guidance

This guidance seeks to ensure 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.

As such, it 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.

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.

The hypothetical scenarios contained in the annexes to this guidance have been included for illustrative purposes, and are intended to provoke thought and discussion rather than serve as a 'best' way to approach the relevant issues.

While the guidance sets out some of the key legal requirements, it does not seek to replicate legislation.

## Status of the guidance

This is statutory guidance from the Ministry of Housing, Communities and Local Government. 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 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.

Not every authority is required to appoint a scrutiny committee. This guidance applies to those authorities who have such a committee in place, whether they are required to or not.

This guidance has been issued under section 9Q of the Local Government Act 2000 and under paragraph 2(9) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009, which requires authorities to have regard to this guidance. In addition, authorities may have regard to other material they might choose to consider, including that issued by the Centre for Public Scrutiny, when exercising their overview and scrutiny functions.

## Terminology

Unless 'overview' is specifically mentioned, the term 'scrutiny' refers to both overview and scrutiny.<sup>1</sup>

Where the term 'authority' is used, it refers to both local authorities and combined authorities.

Where the term 'scrutiny committee' is used, it refers to an overview and scrutiny committee and any of its sub-committees. As the legislation refers throughout to powers conferred on scrutiny committees, that is the wording used in this guidance. However, the guidance should be seen as applying equally to work undertaken in informal task and finish groups, commissioned by formal committees.

Where the term 'executive' is used, it refers to executive members.

For combined authorities, references to the 'executive' or 'cabinet' should be interpreted as relating to the mayor (where applicable) and all the authority members.

For authorities operating committee rather than executive arrangements, references to the executive or Cabinet should be interpreted as relating to councillors in leadership positions.

## Expiry or review date

This guidance will be kept under review and updated as necessary.

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<sup>1</sup> A distinction is often drawn between 'overview' which focuses on the development of policy, and 'scrutiny' which looks at decisions that have been made or are about to be made to ensure they are fit for purpose.

# 1. Introduction and Context

1. Overview and scrutiny committees were introduced in 2000 as part of new executive governance arrangements to ensure that members of an authority who were not part of the executive could hold the executive to account for the decisions and actions that affect their communities.
2. Overview and scrutiny committees have statutory powers<sup>2</sup> to scrutinise decisions the executive is planning to take, those it plans to implement, and those that have already been taken/implemented. Recommendations following scrutiny enable improvements to be made to policies and how they are implemented. Overview and scrutiny committees can also play a valuable role in developing policy.

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; and
- Drive improvement in public services.

3. The requirement for local authorities in England to establish overview and scrutiny committees is set out in sections 9F to 9FI of the Local Government Act 2000 as amended by the Localism Act 2011.
4. The Localism Act 2011 amended the Local Government Act 2000 to allow councils to revert to a non-executive form of governance - the 'committee system'. Councils who adopt the committee system are not required to have overview and scrutiny but may do so if they wish. The legislation has been strengthened and updated since 2000, most recently to reflect new governance arrangements with combined authorities. Requirements for combined authorities are set out in Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009.
5. Current overview and scrutiny legislation recognises that authorities are democratically-elected bodies who are best-placed to determine which overview and scrutiny arrangements best suit their own individual needs, and so gives them a great degree of flexibility to decide which arrangements to adopt.
6. In producing this guidance, the Government fully recognises both authorities' democratic mandate and that the nature of local government has changed in recent years, with, for example, the creation of combined authorities, and councils increasingly delivering key services in partnership with other organisations or outsourcing them entirely.

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<sup>2</sup> Section 9F of the Local Government Act 2000; paragraph 1 of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009.

## 2. Culture

7. The prevailing organisational culture, behaviours and attitudes of an authority will largely determine whether its scrutiny function succeeds or fails.
8. 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.
9. 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.
10. Members and senior officers should note that the performance of the scrutiny function is not just of interest to the authority itself. Its effectiveness, or lack thereof, is often considered by external bodies such as regulators and inspectors, and highlighted in public reports, including best value inspection reports. Failures in scrutiny can therefore help to create a negative public image of the work of an authority as a whole.

### How to establish a strong organisational culture

11. Authorities can establish a strong organisational culture by:

- a) **Recognising scrutiny's legal and democratic legitimacy** – all members and officers should recognise and appreciate the importance and legitimacy the scrutiny function is afforded by the law. It was created to act as a check and balance on the executive and is a statutory requirement for all authorities operating executive arrangements and for combined authorities.

Councillors have a unique legitimacy derived from their being democratically elected. The insights that they can bring by having this close connection to local people are part of what gives scrutiny its value.

- b) **Identifying a clear role and focus** – authorities should take steps to ensure scrutiny has a clear role and focus within the organisation, i.e. 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 (see chapter 6).

Authorities should ensure a clear division of responsibilities between the scrutiny function and the audit function. While it is appropriate for scrutiny to pay due regard to the authority's financial position, this will need to happen in the context of the formal audit role. The authority's section 151 officer should advise scrutiny on how to manage this dynamic.

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 the matter. Further guidance on whistleblowing can be found at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/415175/bis-15-200-whistleblowing-guidance-for-employers-and-code-of-practice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/415175/bis-15-200-whistleblowing-guidance-for-employers-and-code-of-practice.pdf).

- c) **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. Authorities should, though, be mindful of their distinct roles:

In particular:

- The executive should not try to exercise control over the work of the scrutiny committee. This could be direct, e.g. by purporting to 'order' scrutiny to look at, or not look at, certain issues, or indirect, e.g. through the use of the whip or as a tool of political patronage, and the committee itself should remember its statutory purpose when carrying out its work. All members and officers should consider the role the scrutiny committee plays to be that of a 'critical friend' not a de facto 'opposition'. Scrutiny chairs have a particular role to play in establishing the profile and nature of their committee (see chapter 4); and
- The chair of the scrutiny committee should determine the nature and extent of an executive member's participation in a scrutiny committee meeting, and in any informal scrutiny task group meeting.

- d) **Managing disagreement** – effective scrutiny involves looking at issues that can be politically contentious. It is therefore inevitable that, at times, an executive will disagree with the findings or recommendations of a scrutiny committee.

It is the job of both the executive and scrutiny to work together to reduce the risk of this happening, and authorities should take steps to predict, identify and act on disagreement.

One way in which this can be done is via an 'executive-scrutiny protocol' (see annex 1) which can help define the relationship between the two and mitigate any differences of opinion before they manifest themselves in unhelpful and unproductive ways. The benefit of this approach is that it provides a framework for disagreement and debate, and a way to manage it when it happens. Often,

the value of such a protocol lies in the dialogue that underpins its preparation. It is important that these protocols are reviewed on a regular basis.

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.

- e) **Providing the necessary support** – while the level of resource allocated to scrutiny is for each authority to decide for itself, when determining resources an authority should consider the purpose of scrutiny as set out in legislation and the specific role and remit of the authority's own scrutiny committee(s), and the scrutiny function as a whole.

Support should also be given by members and senior officers to scrutiny committees and their support staff to access information held by the authority and facilitate discussions with representatives of external bodies (see chapter 5).

- f) **Ensuring impartial advice from officers** – authorities, particularly senior officers, should ensure all officers are free to provide impartial advice to scrutiny committees. This is fundamental to effective scrutiny. Of particular importance is the role played by 'statutory officers' – the monitoring officer, the section 151 officer and the head of paid service, and where relevant the statutory scrutiny officer. These individuals have a particular role in ensuring that timely, relevant and high-quality advice is provided to scrutiny.
- g) **Communicating scrutiny's role and purpose to the wider authority** – the scrutiny function can often lack support and recognition within an authority because there is a lack of awareness among both members and officers about the specific role it plays, which individuals are involved and its relevance to the authority's wider work. Authorities should, therefore, take steps to ensure all members and officers are made aware of the role the scrutiny committee plays in the organisation, its value and the outcomes it can deliver, the powers it has, its membership and, if appropriate, the identity of those providing officer support.
- h) **Maintaining the interest of full Council in the work of the scrutiny committee** – 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.

In order to maintain awareness of scrutiny at the Combined Authority and provoke dialogue and discussion of its impact, the business of scrutiny should be reported to the Combined Authority board or to the chairs of the relevant scrutiny committees of constituent and non-constituent authorities, or both. At those chairs' discretion, particular Combined Authority scrutiny outcomes, and what they might mean for each individual area, could be either discussed by scrutiny in committee or referred to full Council of the constituent authorities.

- i) **Communicating scrutiny's role to the public** – 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 (see chapter 6).
- j) **Ensuring scrutiny members are supported in having an independent mindset** – formal committee meetings provide a vital opportunity for scrutiny members to question the executive and officers.

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 mind-set 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.

### Directly-elected mayoral systems

12. A strong organisational culture that supports scrutiny work is particularly important in authorities with a directly-elected mayor to ensure there are the checks and balances to maintain a robust democratic system. Mayoral systems offer the opportunity for greater public accountability and stronger governance, but there have also been incidents that highlight the importance of creating and maintaining a culture that puts scrutiny at the heart of its operations.
13. Authorities with a directly-elected mayor should ensure that scrutiny committees are well-resourced, are able to recruit high-calibre members and that their scrutiny functions pay particular attention to issues surrounding:
  - rights of access to documents by the press, public and councillors;
  - transparent and fully recorded decision-making processes, especially avoiding decisions by 'unofficial' committees or working groups;
  - delegated decisions by the Mayor;
  - whistleblowing protections for both staff and councillors; and
  - powers of Full Council, where applicable, to question and review.

14. Authorities with a directly-elected mayor should note that mayors are required by law to attend overview and scrutiny committee sessions when asked to do so (see paragraph 44).



## 3. Resourcing

15. 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.
16. 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.
17. 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).

When deciding on the level of resource to allocate to the scrutiny function, the factors an authority should consider include:

- Scrutiny's legal powers and responsibilities;
- The particular role and remit scrutiny will play in the authority;
- The training requirements of scrutiny members and support officers, particularly the support needed to ask effective questions of the executive and other key partners, and make effective recommendations;
- The need for ad hoc external support where expertise does not exist in the council;
- Effectively-resourced scrutiny has been shown to add value to the work of authorities, improving their ability to meet the needs of local people; and
- Effectively-resourced scrutiny can help policy formulation and so minimise the need for call-in of executive decisions.

### Statutory scrutiny officers

18. Combined authorities, upper and single tier authorities are required to designate a statutory scrutiny officer,<sup>3</sup> someone whose role 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.

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<sup>3</sup> Section 9FB of the Local Government Act 2000; article 9 of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017

19. Authorities not required by law to appoint such an officer should consider whether doing so would be appropriate for their specific local needs.

#### Officer resource models

20. Authorities are free to decide for themselves which wider officer support model best suits their individual circumstances, though generally they adopt one or a mix of the following:

- Committee – officers are drawn from specific policy or service areas;
- Integrated – officers are drawn from the corporate centre and also service the executive; and
- Specialist – officers are dedicated to scrutiny.

21. Each model has its merits – the committee model provides service-specific expertise; the integrated model facilitates closer and earlier scrutiny involvement in policy formation and alignment of corporate work programmes; and the specialist model is structurally independent from those areas it scrutinises.

22. Authorities should ensure that, whatever model they employ, officers tasked with providing scrutiny support are able to provide impartial advice. This might require consideration of the need to build safeguards into the way that support is provided. The nature of these safeguards will differ according to the specific role scrutiny plays in the organisation.

## 4. Selecting Committee Members

23. Selecting the right members to serve on scrutiny committees is essential if those committees are to function effectively. Where a committee is made up of members who have the necessary skills and commitment, it is far more likely to be taken seriously by the wider authority.
24. While there are proportionality requirements that must be met,<sup>4</sup> the selection of the chair and other committee members is for each authority to decide for itself. Guidance for combined authorities on this issue has been produced by the Centre for Public Scrutiny<sup>5</sup>.

Members invariably have different skill-sets. What an authority must consider when forming a committee is that, as a group, it possesses the requisite expertise, commitment and ability to act impartially to fulfil its functions.

25. Authorities are reminded that members of the executive cannot be members of a scrutiny committee.<sup>6</sup> Authorities should take care to ensure that, as a minimum, members holding less formal executive positions, e.g. as Cabinet assistants, do not sit on scrutinising committees looking at portfolios to which those roles relate. Authorities should articulate in their constitutions how conflicts of interest, including familial links (see also paragraph 31), between executive and scrutiny responsibilities should be managed, including where members stand down from the executive and move to a scrutiny role, and vice-versa.
26. Members or substitute members of a combined authority must not be members of its overview and scrutiny committee.<sup>7</sup> This includes the Mayor in Mayoral Combined Authorities. It is advised that Deputy Mayors for Policing and Crime are also not members of the combined authority's overview and scrutiny committee.

### Selecting individual committee members

27. When selecting individual members to serve on scrutiny committees, an authority should consider a member's experience, expertise, interests, ability to act impartially, ability to work as part of a group, and capacity to serve.

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<sup>4</sup> See, for example, regulation 11 of the Local Authorities (Committee System) (England) Regulations 2012 (S.I. 2012/1020) and article 4 of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 (S.I. 2017/68).

<sup>5</sup> See pages 15-18 of 'Overview and scrutiny in combined authorities: a plain English guide': <https://www.cfps.org.uk/wp-content/uploads/Overview-and-scrutiny-in-combined-authorities-a-plain-english-guide.pdf>

<sup>6</sup> Section 9FA(3) of the Local Government Act 2000.

<sup>7</sup> 2(3) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009

28. Authorities should not take into account a member's perceived level of support for or opposition to a particular political party (notwithstanding the wider legal requirement for proportionality referred to in paragraph 24).

### Selecting a chair

29. The Chair plays a leadership role on a scrutiny committee as they are largely responsible for establishing its profile, influence and ways of working.

30. The attributes authorities should and should not take into account when selecting individual committee members (see paragraphs 27 and 28) 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.

Chairs should pay special attention to the need to guard the committee's independence. Importantly, however, they should take care to avoid the committee being, and being viewed as, a de facto opposition to the executive.

31. Given their pre-eminent role on the scrutiny committee, it is strongly recommended that the Chair not preside over scrutiny of their relatives<sup>8</sup>. Combined authorities should note the legal requirements that apply to them where the Chair is an independent person<sup>9</sup>.

32. The method for selecting a Chair is for each authority to decide for itself, however every authority should consider taking a vote by secret ballot. Combined Authorities should be aware of the legal requirements regarding the party affiliation of their scrutiny committee Chair<sup>10</sup>.

### Training for committee members

33. Authorities should ensure committee members are offered induction when they take up their role and ongoing training so they can carry out their responsibilities effectively. Authorities should pay attention to the need to ensure committee members are aware of their legal powers, and how to prepare for and ask relevant questions at scrutiny sessions.

34. When deciding on training requirements for committee members, authorities should consider taking advantage of opportunities offered by external providers in the sector.

### Co-option and technical advice

35. 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.

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<sup>8</sup> A definition of 'relative' can be found at section 28(10) of the Localism Act 2011.

<sup>9</sup> See article 5(2) of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 (S.I. 2017/68).

<sup>10</sup> Article 5(6) of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.

36. There are two principal ways to procure this:

- Co-option – formal co-option is provided for in legislation<sup>11</sup>. Authorities must establish a co-option scheme to determine how individuals will be co-opted onto committees; and
- Technical advisers – depending on the subject matter, independent local experts might exist who can provide advice and assistance in evaluating evidence (see annex 2).

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<sup>11</sup> Section 9FA(4) Local Government Act 2000

## 5. Power to Access Information

37. A scrutiny committee needs access to relevant information the authority holds, and to receive it in good time, if it is to do its job effectively.
38. This need is recognised in law, with members of scrutiny committees enjoying powers to access information<sup>12</sup>. In particular, regulations give enhanced powers to a scrutiny member to access exempt or confidential information. This is in addition to existing rights for councillors to have access to information to perform their duties, including common law rights to request information and rights to request information under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
39. When considering what information scrutiny needs in order to carry out its work, scrutiny members and the executive should consider scrutiny's role and the legal rights that committees and their individual members have, as well as their need to receive timely and accurate information to carry out their duties effectively.
40. 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.
41. Officers should speak to scrutiny members to ensure they understand the reasons why information is needed, thereby making the authority better able to provide information that is relevant and timely, as well as ensuring that the authority complies with legal requirements.

While each request for information should be judged on its individual merits, authorities should adopt a default position of sharing the information they hold, on request, with scrutiny committee members.

42. The law recognises that there might be instances where it is legitimate for an authority to withhold information and places a requirement on the executive to provide the scrutiny committee with a written statement setting out its reasons for that decision<sup>13</sup>. However, members of the executive and senior officers should take particular care to avoid refusing requests, or limiting the information they provide, for reasons of party political or reputational expediency.

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<sup>12</sup> Regulation 17 - Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012; article 10 Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.

<sup>13</sup> Regulation 17(4) – Local Government (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012; article 10(4) Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.

Before an authority takes a decision not to share information it holds, it should give serious consideration to whether that information could be shared in closed session.

43. Regulations already stipulate a timeframe for executives to comply with requests from a scrutiny member<sup>14</sup>. When agreeing to such requests, authorities should:

- consider whether seeking clarification from the information requester could help better target the request; and
- Ensure the information is supplied in a format appropriate to the recipient's needs.

44. Committees should be aware of their legal power to require members of the executive and officers to attend before them to answer questions<sup>15</sup>. It is the duty of members and officers to comply with such requests.<sup>16</sup>

#### Seeking information from external organisations

45. Scrutiny members should also consider the need to supplement any authority-held information they receive with information and intelligence that might be available from other sources, and should note in particular their statutory powers to access information from certain external organisations.

46. When asking an external organisation to provide documentation or appear before it, and where that organisation is not legally obliged to do either (see annex 3), scrutiny committees should consider the following:

- a) **The need to explain the purpose of scrutiny** – the organisation being approached might have little or no awareness of the committee's work, or of an authority's scrutiny function more generally, and so might be reluctant to comply with any request;
- b) **The benefits of an informal approach** – individuals from external organisations can have fixed perceptions of what an evidence session entails and may be unwilling to subject themselves to detailed public scrutiny if they believe it could reflect badly on them or their employer. Making an informal approach can help reassure an organisation of the aims of the committee, the type of information being sought and the manner in which the evidence session would be conducted;

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<sup>14</sup> Regulation 17(2) – Local Government (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012; article 10(2) Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.

<sup>15</sup> Section 9FA(8) of the Local Government Act 2000; paragraph 2(6) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009.

<sup>16</sup> Section 9FA(9) of the Local Government Act 2000; paragraph 2(7) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009.

- c) **How to encourage compliance with the request** – scrutiny committees will want to frame their approach on a case by case basis. For contentious issues, committees might want to emphasise the opportunity their request gives the organisation to ‘set the record straight’ in a public setting; and
- d) **Who to approach** – a committee might instinctively want to ask the Chief Executive or Managing Director of an organisation to appear at an evidence session, however it could be more beneficial to engage front-line staff when seeking operational-level detail rather than senior executives who might only be able to talk in more general terms. When making a request to a specific individual, the committee should consider the type of information it is seeking, the nature of the organisation in question and the authority’s pre-existing relationship with it.

**Following ‘the Council Pound’**

Scrutiny committees will often have a keen interest in ‘following the council pound’, i.e. 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.



## 6. Planning Work

47. 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. To have this kind of impact, scrutiny committees need to plan their work programme, i.e. draw up a long-term agenda and consider making it flexible enough to accommodate any urgent, short-term issues that might arise during the year.
48. Authorities with multiple scrutiny committees sometimes have a separate work programme for each committee. Where this happens, consideration should be given to how to co-ordinate the various committees' work to make best use of the total resources available.

### Being clear about scrutiny's role

49. 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 carries out generalised oversight across the wide range of issues experienced by local people, particularly in the context of partnership working. Prioritisation is necessary, which means that there might be things that, despite being important, scrutiny will not be able to look at.
50. Different overall roles could include having a focus on risk, the authority's finances, or on the way the authority works with its partners.
51. Applying this focus does not mean that certain subjects are 'off limits'. It is more about looking at topics and deciding whether their relative importance justifies the positive impact scrutiny's further involvement could bring.
52. When thinking about scrutiny's focus, members should be supported by key senior officers. The statutory scrutiny officer, if an authority has one, will need to take a leading role in supporting members to clarify the role and function of scrutiny, and championing that role once agreed.

### Who to speak to

53. Evidence will need to be gathered to inform the work programming process. This will ensure that it looks at the right topics, in the right way and at the right time. Gathering evidence requires conversations with:
  - *The public* – it is likely that formal 'consultation' with the public on the scrutiny work programme will be ineffective. Asking individual scrutiny members to have conversations with individuals and groups in their own local areas can work better. Insights 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.

Authorities should consider how their communications officers can help scrutiny engage with the public, and how wider internal expertise and local knowledge from both members and officers might make a contribution.

- *The authority's partners* – 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<sup>17</sup>; and
  - Others with a stake and interest in the local area – large local employers, for example.
- *The executive* – a principal partner in discussions on the work programme should be the executive (and senior officers). The executive should not direct scrutiny's work (see chapter 2), but conversations will help scrutiny members better understand how their work can be designed to align with the best opportunities to influence the authority's wider work.

#### Information sources

54. Scrutiny will need access to relevant information to inform its work programme. The type of information will depend on the specific role and function scrutiny plays within the authority, but might include:

- Performance information from across the authority and its partners;
- Finance and risk information from across the authority and its partners;
- Corporate complaints information, and aggregated information from political groups about the subject matter of members' surgeries;
- Business cases and options appraisals (and other planning information) for forthcoming major decisions. This information will be of particular use for pre-decision scrutiny; and
- Reports and recommendations issued by relevant ombudsmen, especially the Local Government and Social Care Ombudsman.

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<sup>17</sup> Authorities should ensure they have appropriate arrangements in place to ensure the effective democratic scrutiny of Local Enterprise Partnerships' investment decisions.

As committees can meet in closed session, commercial confidentiality should not preclude the sharing of information. Authorities should note, however, that the default for meetings should be that they are held in public (see 2014 guidance on '*Open and accountable local government*':

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/343182/140812\\_Openness\\_Guide.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/343182/140812_Openness_Guide.pdf)).

55. Scrutiny members should consider keeping this information under regular review. It is likely to be easier to do this outside committee, rather than bringing such information to committee 'to note', or to provide an update, as a matter of course.

### Shortlisting topics

Approaches to shortlisting topics should reflect scrutiny's overall role in the authority. This will require the development of bespoke, local solutions, however when considering whether an item should be included in the work programme, the kind of questions a scrutiny 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?

56. Some authorities use scoring systems to evaluate and rank work programme proposals. If these are used to provoke discussion and debate, based on evidence, about what priorities should be, they can be a useful tool. Others take a looser approach. Whichever method is adopted, a committee should be able to justify how and why a decision has been taken to include certain issues and not others.

57. Scrutiny members should accept that shortlisting can be difficult; scrutiny committees have finite resources and deciding how these are best allocated is tough. They should understand that, if work programming is robust and effective, there might well be issues that they want to look at that nonetheless are not selected.

### Carrying out work

58. Selected topics can be scrutinised in several ways, including:

- a) **As a single item on a committee agenda** – this often presents a limited opportunity for effective scrutiny, but may be appropriate for some issues or where the committee wants to maintain a formal watching brief over a given issue;
- b) **At a single meeting** – which could be a committee meeting or something less formal. This can provide an opportunity to have a single public meeting about a

given subject, or to have a meeting at which evidence is taken from a number of witnesses;

- c) **At a task and finish review of two or three meetings** – short, sharp scrutiny reviews are likely to be most effective even for complex topics. Properly focused, they ensure members can swiftly reach conclusions and make recommendations, perhaps over the course of a couple of months or less;
- d) **Via a longer-term task and finish review** – the ‘traditional’ task and finish model – with perhaps six or seven meetings spread over a number of months – is still appropriate when scrutiny needs to dig into a complex topic in significant detail. However, the resource implications of such work, and its length, can make it unattractive for all but the most complex matters; and
- e) **By establishing a ‘standing panel’** – this falls short of establishing a whole new committee but may reflect a necessity to keep a watching brief over a critical local issue, especially where members feel they need to convene regularly to carry out that oversight. Again, the resource implications of this approach means that it will be rarely used.

## 7. Evidence Sessions

59. Evidence sessions are a key way in which scrutiny committees inform their work. They might happen at formal committee, in less formal 'task and finish' groups or at standalone sessions.

Good preparation is a vital part of conducting effective evidence sessions. Members should have a clear idea of what the committee hopes to get out of each session and appreciate that success will depend on their ability to work together on the day.

### How to plan

60. 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. This applies as much to individual agenda items as it does for longer evidence sessions – there should always be consideration in advance of what scrutiny is trying to get out of a particular evidence session.

Chairs play a vital role in leading discussions on objective-setting and ensuring all members are aware of the specific role each will play during the evidence session.

61. As far as possible there should be consensus among scrutiny members about the objective of an evidence session before it starts. It is important to recognise that members have different perspectives on certain issues, and so might not share the objectives for a session that are ultimately adopted. Where this happens, the Chair will need to be aware of this divergence of views and bear it in mind when planning the evidence session.
62. Effective planning should mean that at the end of a session it is relatively straightforward for the chair to draw together themes and highlight the key findings. It is unlikely that the committee will be able to develop and agree recommendations immediately, but, unless the session is part of a wider inquiry, enough evidence should have been gathered to allow the chair to set a clear direction.
63. After an evidence session, the committee might wish to hold a short 'wash-up' meeting to review whether their objectives were met and lessons could be learned for future sessions.

### Developing recommendations

64. The development and agreement of recommendations is often an iterative process. It will usually be appropriate for this to be done only by members, assisted by co-optees where relevant. When deciding on recommendations, however, members should have due regard to advice received from officers, particularly the Monitoring Officer.

65. The drafting of reports is usually, but not always, carried out by officers, directed by members.

66. Authorities draft reports and recommendations in a number of ways, but there are normally three stages:

- i. 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;
- ii. the development of those findings, which will set out some areas on which recommendations might be made; and
- iii. the drafting of the full report.

67. Recommendations should be evidence-based and SMART, i.e. specific, measurable, achievable, relevant and timed. Where appropriate, committees may wish to consider sharing them in draft with interested parties.

68. Committees should bear in mind that often six to eight recommendations are sufficient to enable the authority to focus its response, although there may be specific circumstances in which more might be appropriate.

Sharing draft recommendations with executive members should not provide an opportunity for them to revise or block recommendations before they are made. It should, however, provide an opportunity for errors to be identified and corrected, and for a more general sense-check.

# Annex 1: Illustrative Scenario – Creating an Executive-Scrutiny Protocol

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.

Councils should consider how to adopt a protocol, e.g. formal agreement at scrutiny committee and Cabinet, then formal integration into the Council's constitution at the next Annual General Meeting.

The protocol, as agreed, may contain sections on:

- The way scrutiny will go about developing its work programme (including the ways in which senior officers and Cabinet members will be kept informed);
- 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;
- A strengthening and expansion of existing parts of the code of conduct that relate to behaviour in formal meetings, and in informal meetings;
- 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
- 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.

## Annex 2: Illustrative Scenario – Engaging Independent Technical Advisers

This example demonstrates how one Council's executive and scrutiny committee worked together to scope a role and then appoint an independent adviser on transforming social care commissioning. Their considerations and process may be helpful and applicable in other similar scenarios.

Major care contracts were coming to an end and the Council took the opportunity to review whether to continue with its existing strategic commissioning framework, or take a different approach – potentially insourcing certain elements.

The relevant Director was concerned about the Council's reliance on a very small number of large providers. The Director therefore approached the Scrutiny and Governance Manager to talk through the potential role scrutiny could play as the Council considered these changes.

The Scrutiny Chair wanted to look at this issue in some depth, but recognised its complexity could make it difficult for her committee to engage – she was concerned it would not be able to do the issue justice. The Director offered support from his own officer team, but the Chair considered this approach to be beset by risks around the independence of the process.

She talked to the Director about securing independent advice. He was worried that an independent adviser could come with preconceived ideas and would not understand the Council's context and objectives. The Scrutiny Chair was concerned that independent advice could end up leading to scrutiny members being passive, relying on an adviser to do their thinking for them. They agreed that some form of independent assistance would be valuable, but that how it was provided and managed should be carefully thought out.

With the assistance of the Governance and Scrutiny Manager, the Scrutiny Chair approached local universities and Further Education institutions to identify an appropriate individual. The approach was clear – it set out the precise role expected of the adviser, and explained the scrutiny process itself. Because members wanted to focus on the risks of market failure, and felt more confident on substantive social care matters, the approach was directed at those with a specialism in economics and business administration. The Council's search was proactive – the assistance of the service department was drawn on to make direct approaches to particular individuals who could carry out this role.

It was agreed to make a small budget available to act as a 'per diem' to support an adviser; academics were approached in the first instance as the Council felt able to make a case that an educational institution would provide this support for free as part of its commitment to Corporate Social Responsibility.

Three individuals were identified from the Council's proactive search. The Chair and Vice-Chair of the committee had an informal discussion with each – not so much to establish their skills and expertise (which had already been assessed) but to give a sense about



their 'fit' with scrutiny's objectives and their political nous in understanding the environment in which they would operate, and to satisfy themselves that they will apply themselves even-handedly to the task. The Director sat in on this process but played no part in who was ultimately selected.

The independent advice provided by the selected individual gave the Scrutiny Committee a more comprehensive understanding of the issue and meant it was able to offer informed advice on the merits of putting in place a new strategic commissioning framework.

# Annex 3: Illustrative Scenario – Approaching an External Organisation to Appear before a Committee

This example shows how one council ensured a productive scrutiny meeting, involving a private company and the public. Lessons may be drawn and apply to other similar scenarios.

Concerns had been expressed by user groups, and the public at large, about the reliability of the local bus service. The Scrutiny Chair wanted to question the bus company in a public evidence session but knew that she had no power to compel it to attend. Previous attempts to engage it had been unsuccessful; the company was not hostile, but said it had its own ways of engaging the public.

The Monitoring Officer approached the company's regional PR manager, but he expressed concern that the session would end in a 'bunfight'. He also explained the company had put their improvement plan in the public domain, and felt a big council meeting would exacerbate tensions.

Other councillors had strong views about the company – one thought the committee should tell the company it would be empty-chaired if it refused to attend. The Scrutiny Chair was sympathetic to this, but thought such an approach would not lead to any improvements.

The Scrutiny Chair was keen to make progress, but it was difficult to find the right person to speak to at the company, so she asked council officers and local transport advocacy groups for advice. Speaking to those people also gave her a better sense of what scrutiny's role might be.

When she finally spoke to the company's network manager, she explained the situation and suggested they work together to consider how the meeting could be productive for the Council, the company and local people. In particular, this provided her with an opportunity to explain scrutiny and its role. The network manager remained sceptical but was reassured that they could work together to ensure that the meeting would not be an 'ambush'. He agreed in principle to attend and also provide information to support the Committee's work beforehand.

Discussions continued in the four weeks leading up to the Committee meeting. The Scrutiny Chair was conscious that while she had to work with the company to ensure that the meeting was constructive – and secure their attendance – it could not be a whitewash, and other members and the public would demand a hard edge to the discussions.

The scrutiny committee agreed that the meeting would provide a space for the company to provide context to the problems local people are experiencing, but that this would be preceded by a space on the agenda for the Chair, Vice-chair, and representatives from two local transport advocacy groups to set out their concerns. The company were sent in

advance a summary of the general areas on which members were likely to ask questions, to ensure that those questions could be addressed at the meeting.

Finally, provision was made for public questions and debate. Those attending the meeting were invited to discuss with each other the principal issues they wanted the meeting to cover. A short, facilitated discussion in the room led by the Chair highlighted the key issues, and the Chair then put those points to the company representatives.

At the end of the meeting, the public asked questions of the bus company representative in a 20-minute plenary item.

The meeting was fractious, but the planning carried out to prepare for this – by channelling issues through discussion and using the Chair to mediate the questioning – made things easier. Some attendees were initially frustrated by this structure, but the company representative was more open and less defensive than might otherwise have been the case.

The meeting also motivated the company to revise its communications plan to become more responsive to this kind of challenge, part of which involved a commitment to feed back to the scrutiny committee on the recommendations it made on the night.

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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 in 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 6.2.1. 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 4.2.5, 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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# The review and redrafting of constitutions: guidance for English authorities

Report author: Ed Hammond



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funded by HM Government.

This is one of three connected publications, all aiming to provide technical advice on the operation and review of critical elements of governance framework for local authorities in England. Between them, the three publications look at:

- Call-in;
- The operation of schemes of delegation to support decision-making;
- The review of Council constitutions

A fourth publication, on the operation of full Council meetings, will be published later in 2023.



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# Introduction

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## What are constitutions for?

Council constitutions provide a framework within which people can understand their own responsibilities, and the responsibilities of others. They allow decision-making, within a democratically elected body, to be consistent, accountable and transparent. They facilitate strong, effective relationships.

Good constitutions provide an anchor for strong organisational and political cultures in which people work well together, and in which decision-making is well-understood by (and visible to) the public.

Constitutions are also rulebooks. They set out much, but not all, of the technical detail of how a council's main decision-making systems operate.

A good constitution is one that is used and understood by councillors and officers alike – and not just governance professionals.

Perhaps more importantly, a good constitution is one whose *core purpose* is understood by those people. It is easy for councils to find themselves in a situation where the minutiae of rules become more important than the objectives those rules are meant to meet. It's important to occasionally step back – to think “why are we doing these things? Has the context for our work changed recently – to the extent that we need to change and strengthen some of these rules and procedures?”

A constitution should be a living document – one that reflect not only evolving practice and law, but also one that is periodically strengthened and refined (as a whole document) to ensure it stays both relevant and consistent.

## What is this guidance for?

The intention of this material is not to set out “best practice” but:

- to introduce key features of modern council constitutions, and the governance framework, to an audience which might not be specialists in those areas;
- to provide officers with responsibility for governance, with general advice to assist them in digging into the technical detail of their constitutional material;
- to ensure that, between members and officers, material exists which gives everyone a common understanding of what good governance is, what its key components are (and what the usual components of a council constitutions are), and to introduce the kinds of technical issues that usually need to be addressed to support it.

None of this material should be interpreted as giving legal advice. Councils' Monitoring Officers are best placed to make accurate judgements about compliance with the law. Nothing in this or other connected material should be seen as challenging that advice, which will reflect the unique context of the council within which it is given.

This material (including this document) covers governance arrangements in England only. In Wales, the Local Government and Elections (Wales) Act 2021 has put in place substantially different arrangements for the organisation and publication of council constitutions, which are covered by separate statutory guidance.

# What needs to be a part of a constitution?

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By law, a council's constitution must contain certain key elements. The detail of these can be found in the [Local Government Act 2000 \(Constitutions\) \(England\) Direction 2000](#), which remains in force. The Direction sets out 26 requirements in full.

## Legislation

The Local Government Act 2000 says, at s9P, that:

- (1) A local authority must prepare and keep up to date a document (referred to in this section as its constitution) which contains—
  - (a) a copy of the authority's standing orders for the time being,
  - (b) a copy of the authority's code of conduct (if any) for the time being under section 28 of the Localism Act 2011,
  - (c) such information as the Secretary of State may direct, and
  - (d) such other information (if any) as the authority considers appropriate.
- (2) In the case of a committee system local authority, the authority's constitution must also contain a statement as to whether the authority has resolved to have an overview and scrutiny committee under section 9JA.
- (3) A local authority must ensure that copies of its constitution are available at its principal office for inspection by members of the public at all reasonable hours.
- (4) A local authority must supply a copy of its constitution to any person who requests a copy and who pays to the authority such reasonable fee as the authority may determine.

Further guidance on content was produced by Government in 2000 using powers originally under s38 of the Act.

The guidance goes into granular detail on all components of the constitution set out in the Direction, as well as ancillary material. It usually goes alongside the "Modular Constitution", a separate set of guidance produced at the same time. This document provides a template or blueprint for the structure of the document which is still followed by almost all English councils.

As it is now over two decades old, it should be expected that some content in the guidance and the Modular Constitution is outdated (and some legally inaccurate, particularly those parts which relate to the standards regime abolished in 2011). But this guidance does still provide the only source of comprehensive, "official" information on the topic, and many council constitutions continue to cleave closely to its contents. We comment further on the structure of the constitution in 'Step 5: Determining the structure of the constitution, setting expectations of how process and procedure will work in key areas of the governance framework', below.

We have found that it can be helpful to reflect, before reviewing and updating a constitution, on the principles that underpin its operation. This helps to ensure that the constitution as a whole reflects those principles. This helps to make sure that the document, and the wider governance framework, is internally consistent – and that people understand how the rules and processes in the constitution are used and interpreted. We cover later in the guidance what these principles might be.

## Why does the constitution need regular “fundamental” review?

It might seem that, if a constitution is originally fairly robust, and if it is diligently updated to reflect changes in the law, undertaking a more fundamental review of the document is unnecessary.

However, over time, large numbers of ad hoc changes can lead to a situation where the constitution becomes choppy, inconsistent, difficult to navigate and inaccessible. Minor changes to the law, where overlooked, can result in inaccuracies which can persist for many years. Often these issues do not have enormous impact but a knowledge that certain parts of the constitution may be inaccurate can lead to a chipping away of the document’s authority.

For this reason, it is considered good practice to undertake a more fundamental review once every five years or so. More than “tidying up”, it allows an opportunity to be taken to ensure that the constitution as a whole continues to be fit for purpose. This is particularly the case where there has been a shift in the council’s operating model – for example, if council begins to own and operate companies then constitutional changes will need to account for the added importance of company governance.

The review of a council constitution is not merely a desktop exercise, in which the Monitoring Officer goes through the document to check its accuracy. It is also not an exercise for a small group of members in a working group, churning their way through the document and making suggestions for changing in wording. It has to be more carefully planned and managed. The process and approach must be one with wide ownership and buy-in, as well as being one that centres the role of the Monitoring Officer in ensuring the rigour of the process. The approach towards review, and the ownership of the review process, is covered in the next section ‘Reviewing the constitution’ .



# Reviewing the constitution

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Many council constitutions state that they should be reviewed annually, and that a more comprehensive revision exercise should occur every five years. Practically, this timetable can be difficult to keep to. We know that many council constitutions have not been comprehensively rewritten for well over a decade. The challenge is to find a way to undertake such a review proportionately.

It is not possible to set out “best practice” for the conduct of reviews of council constitutions. Even if council constitutions are similar in structure and content, all councils are different – and governance needs are also different.

However, CfGS’s experience is that an approach which balances the role, insight and expertise of both members and officers works best. The following is an indicative approach, based in part on recent review exercises in which CfGS has been involved.

A prerequisite for any review is to secure legal advice. Work will need to be overseen by a qualified lawyer, or a qualified lawyer will need to be otherwise involved throughout the process. This may be the Monitoring Officer, another lawyer employed by the authority, or a lawyer contracted externally. A qualified lawyer familiar with the statutory requirements relating to constitutions, and associated governance documents, will be able to provide assurance that those documents comply with the law. There is no substitute for the rigour of high-quality legal advice on a document of such fundamental importance.

## Step 1: Affirming ownership of the constitution

The issue of who “owns” the constitution is important to the issue of who makes changes to it, and who has a stake in the conversations that lead to those changes.

The constitution is not “owned” by the Monitoring Officer, or lawyers or other officers with a responsibility for governance. Everyone has an individual and collective responsibility to understand the constitution – as part of the governance framework – and their roles in upholding it by acting in accordance with it and its principles.

This is about not only understanding the “rules” in the constitution and what they say, but the principles behind those rules. Why do we make decisions this way? What alternatives do we have to these ways of working; have we considered those options and if we have discarded some of them, why is this? Members and officers must understand the governance framework and its importance and they need to be bought in.

## The role of councillors in reviewing the constitution

Any major review of the constitution needs to be overseen by members, who need to set the parameters of the exercise. In the normal run of events constitutional changes must be agreed by full Council, but usually regular oversight is undertaken by another body, like the Audit Committee.

In some councils, informal bodies are established to support constitutional reviews. Constitutional Working Groups are quite common bodies to perform this purpose. Whatever approach is taken, meaningful member engagement is a crucial part of any review process. Part of the scoping process for the work (see below) would usually involve agreement on where member input, and signoff, is necessary.

## The role of the Monitoring Officer in reviewing the constitution

Usually, a constitution will empower the Monitoring Officer to make “minor amendments” to the constitution without reference to members. The meaning of these words is moot, and we are aware of councils where members have disputed where certain changes are “minor”.

The MO plays an important role in advising members of the adequacy of the constitution, as part of their formal statutory duties. When a more detailed review is undertaken, the MO will have a critical role in advising members, and leading on the process of redrafting itself. The MO is best placed to understand where and when external legal advice may need to be brought in to assist – redrafting a constitution is a specialist task.

### Step 2: Identifying the drivers for the review

An internal review of governance carried out further to the council’s audit obligations

Councils are legally obliged to prepare a document called an Annual Governance Statement (as set out in the Accounts and Audit (England) Regulations 2015). Further context for the drafting of the AGS is provided in the CIPFA/SOLACE “Delivering Good Governance in Local Government Framework”. The Framework and Regulations make it clear that the preparation of the AGS should be informed by a review, and it is the product of this review which is likely to highlight any need for change and improvement on governance

#### The CIPFA/SOLACE framework

The Framework defines the principles that should underpin the governance of each local government organisation. It provides a structure to help individual authorities with their approach to governance.

Whatever form of arrangements are in place, authorities should therefore test their governance structures and partnerships against the principles contained in the Framework by:

- reviewing existing governance arrangements
- developing and maintaining an up-to-date local code of governance, including arrangements for ensuring ongoing effectiveness
- reporting publicly on compliance with their own code on an annual basis and on how they have monitored the effectiveness of their governance arrangements in the year and on planned changes

Audit work might identify a need to strengthen governance around council-owned companies or other commercial activity, or around contracting and procurement – all things that will require changes to procedure rules in the constitution. Occasionally the AGS will flag a need for a more general governance review.

#### Internal stresses and pressures

##### *Governance change*

The most obvious internal driver for change is a shift from one form of legal governance to another. Moving from the leader-cabinet model to the committee system, for example, will involve a significant revision of key areas of the constitution as a matter of course.

CfGS has commented separately (in the CfGS/LGA document “[Rethinking governance](#)”) of the process to be undertaken when considering options for governance reviews. Constitutional change will come at the end of that process and will need to work to a deadline, as formal change in governance can only happen at the time of Council AGM. This poses an additional challenge, especially where other drivers for change exist.

#### *Changes in political circumstances*

A council’s constitution needs to be robust and flexible enough to respond to political circumstances.

The council may recently have changed political control – or may be under no overall control. Other political circumstances may have placed demand on the governance system. The council may, for example, be highly politically contestable (changing administration regularly) or there may have been another unexpected change in political leadership.

Designing a council’s governance arrangements around its current (or past, or possible future) political circumstances is poor practice. But governance and decision-making do need to be designed to provide the flexibility to deal with a number of scenarios relating to political, and officer, leadership.

There may be challenges associated with a recent high turnover of members – and high turnover of senior officers. On the member side, a loss of long-standing councillors can bring new perspectives and skills from new councillors but can also result in a loss of organisational memory, and familiarity with existing constitutional systems.

On the officer side, the council may have had interims in senior posts for some time, or may for various reasons (financial challenges, the pandemic) simply not have had the headspace to think strategically about governance for some time.

#### *Relationships*

The relationship between members as well as the relationship between members and officers is a critical element of the governance framework.

Where pressures present themselves around decision-making and accountability, they often relate to relationship challenges. The constitution provides a structure within which positive relationships can develop, but the process is not automatic. As such, amendment to the constitution will not itself deliver change, and the scoping of the work (in the next step) needs to take this into account.

Some of these issues are highlighted in CfGS’s “[governance risk and resilience](#)” framework. This framework provides a range of prompts, expressed in the forms of behaviours, relating to good and bad approaches to corporate governance. The presence (or otherwise) of these behaviours could be seen as drivers for the need to review the constitution.

The behaviours can be found here - <https://www.cfgs.org.uk/behaviours-associated-with-the-seven-characteristics/>

Full information on the risk and resilience framework can be found here - <https://www.cfgs.org.uk/governancerisk/>

## External drivers

### *Review and inspection*

The need for a constitutional, or broader governance, review could also be highlighted by an external actor – for example, the Local Government Association, as a result of a corporate peer challenge (CPC). Ofsted and CQC inspections can also highlight the need to address governance.

Importantly, external auditors can also play a role in identifying shortcomings and weaknesses in a council's governance framework as part of their duties.

External drivers such as this can prompt defensiveness. Councils can take forward reviews of the constitution, and of governance, in a perfunctory way, or in a way that takes a long time because the work is not prioritised, and therefore not properly resourced. Councils (and Monitoring Officers in particular) will need to be self-critical in how they respond to these kinds of external drivers for change – and to ensure (as we write elsewhere) that a review of the constitution is not limited to a mechanistic review of the words on the page and the extent to which they marry up to legal requirements.

### *Changes to legislation*

Finally, drivers can arise from a substantial change in legislation (many councils undertook fairly significant changes to their constitutions in light of the Localism Act 2011).

## **Step 3: Setting the scope and scale of the work**

Members, and the council generally, may have the appetite for a fundamental review of the constitution alongside other governance documents – to overhaul the governance system fairly profoundly.

More likely, people will want to conduct a more limited exercise. This will be determined by some of the drivers set out above. In designing the process however it is important to note that a constitution review is not a typical, standalone council “project” – its scope and scale will have impacts on wider organisational development and transformation plans. In particular, we have found that there are important intersections with things like staff restructures and “culture change” programmes. Understanding where such projects may be in train (or may likely to be in the near future) is important in understanding where certain dependencies might lie.

As such, early liaison with officers in charge of OD and HR, those in charge of a Programme Management Office (if the council has one) and with roles in internal comms will be an important part of making the exercise work.

In setting the scope and scale of the work it is important to take into account two things:

- a “review of the constitution” can be extremely broad in scope, and given the dependencies described above, can impact a huge range of corporate and service issues – a scoping exercise will need to provide focus, in order to manage both member and officer expectations. For example, one conclusion of the planning process may be that improvements will need to take the form of an ongoing programme of review and improvement rather than the kind of review we suggest in this document;
- a review of the constitution, as we have noted elsewhere, should not be seen as a conventional “project”. The political dimension, as well as the impact of the work on the fundamentals of the way that the council is run, demand a different approach (which informs the process set out in this document).

## Step 4: Asserting basic principles for decision-making, oversight, and other key features of good governance

Once the drivers and scope of the work have been agreed, it can be useful for members to articulate the basic principles that they think are especially important to the way that the council works. This is likely to encompass a view on the division of responsibility between members, and between members and officers. It will inform how the more detailed process of redrafting should be undertaken.

- Decision-making overall. Where should the dividing line lie between member and officer decision-making? What does this mean, in practice, for things like the scheme of officer delegation? How open can policy development and decision-making be – assuming that we are operating from a presumption in favour of openness? How do we designate “key” decisions? How do we want and expect to work with our partners and the public? These, and related questions, concern the fundamentals of how a local authority operates. Being able to articulate the principles that govern how decision-making will work will provide consistency, and will make it easier to secure commitments to positive working behaviours. If people don’t understand why decision-making systems work as they do, and/or if those systems are seen as arcane and frustrating, they will not be taken seriously.
- Members’ contribution to decision-making (and member oversight). Under executive arrangements, members exert oversight, and provide direction, in a number of places – at full Council, in scrutiny committees, audit committee and occasionally in other forums – working groups, area committees and so on. Under the committee system, service committees provide a space both for decision-making, and for oversight.

Member oversight can be exerted in advance of a decision being made. This can be a form of “pre-decision” scrutiny, either a few weeks before Cabinet come to decide something, or longer in advance, as part of an active contribution to policy development). It can also take the form of scrutiny following a decision being made, in order to monitor the decision’s implementation. Having a sense of members’ expectations of the level of oversight they will have over decision-making, and delivery, is an important part of designing constitutional arrangements that feel balanced, and which provide for strong local accountability.

Particularly at the time of writing (March 2023), when councils are under great financial pressure, ensuring that consistent expectations exist around member oversight of financial issues is important.

- Officer oversight and management - Further to the general point above about the dividing line between members and officers, there needs to be a degree of confidence in those matters where officers will be empowered to make decisions, and to deal with problems and risks.
- The rights of the public - Although constitutions often contain little information other than that which is required by statute on the rights of the public, there is an opportunity to set out principles and commitments around the way that the council will consult and engage with residents, especially on important decisions. If commitments are made in such a way, there does of course need to be a way to back them up in practice.
- Partnership working. This phrase covers a range of connected issues:
  - The council’s relationship with certain statutory partners, like NHS bodies (through structures such as the Integrated Care Partnership) and combined authorities, where they exist;
  - The council’s relationship with outside bodies – organisations to which the council might nominate members to sit on boards and committees;
  - The council’s relationship with wholly or partly owned companies. The council may have shareholding and/or membership responsibilities which may need to be laid out in the constitution. Ensuring that company governance arrangements are clear – in particular, the responsibilities of members in overseeing company activity – is an extremely important part of the governance framework. More information can be found in “Local authority company review guidance” (Local Partnerships, 2021)

## Step 5: Determining the structure of the constitution, setting expectations of how process and procedure will work in key areas of the governance framework

We have already noted that most councils have stuck fairly closely to the constitutional structures set out in the Government's "Modular Constitution", produced in 2000. It deserves re-emphasis that this model, modular constitution is a piece of statutory guidance – councils therefore need to have regard to it in reviewing, and redrafting, their own constitutions.

Following the structure of the Modular Constitution makes it easier to ensure that the contents of the constitution are being managed properly and legally. The structure is also tried and tested, having been in operation in most councils for over two decades.

This does not however mean that it is perfect. Some councils have chosen to diverge, in part or more fundamentally, with the structures set out in the Modular Constitution. Often this is because the existing structure is seen as giving rise to a lot of duplication, and because the structure is difficult to navigate and follow for the non-expert reader.

A more fundamental restructure of the constitution can be useful for councils that want to use the exercise as a fundamental break with pre-existing practice. Where change is being pursued because of acknowledged governance failure, reworking the structure can make it easier to highlight the importance of – for example – member-officer relationships and good decision-making. But this does bring with it risks, particularly in putting in place novel arrangements and procedures untested elsewhere (though this may be attractive for councils with an appetite for innovation).

As well as agreeing the structure, this part of the process allows the key features of the new constitution to be discussed and agreed with members. This includes places where the constitution is likely to change fairly significantly – in part, to meet the needs of the drivers identified in the earlier stages. This might involve major changes to the scheme of delegation, the operation of scrutiny arrangements, arrangements for making key decisions and so on. Making sure that members are not only sighted on these changes, but active in setting parameters and expectations, is important.

## Step 6: Undertaking detailed technical redrafting

Once principles have been agreed and parameters for redrafting have been decided, detailed work can commence.

Carrying out a review in this way means that it is less likely that councillors will need to review technical detail as it is produced. If councillors have set the terms for that redrafting in the way described, officers can proceed with that work with the confidence that it will conform to members' expectations.

The alternative is a process by which changes are drafted and brought in their entirety to members to review – leading to a complex and heavy exercise which is likely to make poor use of everyone's time.

## Step 7: Adoption, embedding and familiarisation

When the redrafting process is complete, three things need to happen:

- The constitution needs to be formally adopted. This may be a three stage process – the final document may need to be considered by a working group, and then go to a formal council committee like Audit or General Purposes before being submitted for final approval at Council;
- The constitution needs to be embedded. There will be plenty of systems and written rules which sit outside the constitution – standard operating procedures that govern day to day work – that will need to be altered to ensure that they align with new constitution content;
- Work needs to be carried out to familiarise members and officers with the content of the constitution. Over a period of months some fairly sustained work will be necessary – some of it by way of coaching, some by way of formal training – to ensure that the key players in the governance framework are familiar with the constitution and are confident in using it and its rules.

### The timescale required

The timescale required for work of this nature depends on the scope of the work. Often councils will be working to the next council AGM – major changes to the constitution are usually agreed then. The actual technical act of redrafting the constitution may only take a few weeks, but the earlier stages can elongate the process. Providing member assurance at critical points can extend things further. Equally, trying to short-circuit the process by limiting member input can create significant delays where members consider that the outcomes of the exercise do not meet their expectations.

A longer process can have two key benefits – it allows for time to reflect on plans and to iterate, and it makes it easier to manage a review and revision of the constitution around other ongoing work. A shorter timescale will require more intensive work, with officers (and members) being pulled away from other duties, and the risk that process is rushed.

In all, a fairly comprehensive review followed by a redraft might take around six months on average.

## The detail of the constitution's contents

This section is designed to provide a general introduction to some of the common features of constitutions, to act as a spur to local conversation about what those features are meant to do, and how local arrangements might need to improve.

The order in which we deal with these issues is not presented to suggest a particular structure to the constitution itself.

### Preambles / introductions

The presence of a summary and explanation of the purpose and content of the Constitution is a legal requirement. Legislation in Wales goes further, requiring councils to produce a more accessible “guide” to the constitution.

A preamble can explain what the constitution is, and can act as a useful point for indexing and cross-reference. It is worth remembering that an important part of ensuring the accessibility of the constitution as a document, is about ensuring that it can be understood and used by a lay audience.

A preamble or introduction can also be the location for:

- material setting out the scheme of elections, and the composition of the council – as well as information about the rights of local residents<sup>1</sup>.
- rights of the public to access information, and council meetings, although these can also be found in committee procedure rules (see below).

Some constitutions have separate protocols setting out “community rights”, which go into much more detail on consultation, involvement, and more novel mechanisms for the public to feed into decision-making. As long as they are cross-referenced, we think that there is some logic in having central repository of information in the constitution about the council’s relationship with the public.

### Articles

While the Articles themselves are not a statutory requirement, their contents often are.

In many councils they act as a central repository of basic information about key bodies and structures within the council, including membership, terms of reference and other key information about those bodies and how they work together.

This information is often reproduced elsewhere in the constitution – but the Articles will often provide a useful introduction to those bodies and structures, and how they interact.

### Public rights

If it is not contained in a preamble or introduction, there will usually be a standalone part of the constitution that sets out the rights of the public. At a minimum, this will set out in respect of the public:

- their rights to vote in elections for the return of members of the authority;
- their rights to access to information about the authority’s activities;
- their rights of access to meetings of the council, its committees and sub-committees and any joint committees established with any other authority; and
- their rights of access to meetings of the executive and committees of the executive

<sup>1</sup> The Ministerial Direction expresses this content as setting out the “rights and responsibilities” of local residents, but we dislike this construction as it suggests that the presence of the rights is contingent on the fulfilment of responsibilities, which is of course not the case.



Sometimes councils will set out more detail in their constitution about public involvement – laying out the approach they will take towards consultation and how public views will be fed into the decision-making process.

## Decision-making, and member oversight (including councillors’ access to information)

### “Executive arrangements”: overview (including local choice functions)

Where a council operates “executive arrangements” those arrangements need, as a minimum, to provide a description of the functions of:

- The executive collectively (i.e., the whole of Cabinet acting together);
- The executive as individuals (where the Council has determined in the constitution that decision-making power will be held by certain cabinet members individually);
- The executive in relation to duties known as “local choice functions” – duties that can be performed either by the executive or by full Council.

Additionally, councils’ decision-making arrangements in the constitution will need to specify where certain decisions are not “executive” in nature and are reserved to full Council.

Legally, under executive arrangements there are a range of executive duties that are the responsibility of the executive alone. The executive powers are not “delegated” to that body by Council – they are conferred directly by legislation.

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 sets out where certain decisions are the responsibility of the executive, the responsibility of full Council, or a matter of local choice. This can be difficult to practically unpick, because certain decisions (in practice) involve both the executive and full Council. One example is the budget – two others are planning and licensing, where individual decision-making is not an executive function but where the executive has a role in proposing the overall policy underpinning decision-making, subject to full Council approval.

The potential for confusion here means that councils will need strong and effective – and consistent – schemes for the delegation of decisions to officers, and to individual members (where appropriate). Delegation requires clarity as to the source of decision-making powers. We discuss this in more detail below.

### *The composition of executives*

Local authority executives are not required to be politically balanced. They are not “committees of the Council” and are not subject to the same rules and laws of ordinary council committees. The constitution has to lay out the names and responsibilities of Cabinet members – this might be here, later in the constitution under the Cabinet Procedure Rules or earlier, in the Articles.

The executive can establish sub-committees to which powers can be delegated – the constitution has to set out the membership of those bodies if they exist.

Although some councils have created the role of “cabinet assistants” or “portfolio holders’ assistants”, and these roles can sometimes be highlighted in the constitution, they have no legal power. As such, these individuals can sit on scrutiny committees (see below), although it is regarded as good practice that they should not sit on the scrutiny committee to which their portfolio responsibilities directly relate.

## Decision-making systems under the committee system

In the committee system all power is conferred by law onto full Council, which decides how then to delegate that power to various council committees. The composition of these service committees is required to be proportionate to the relative sizes of political parties at the authority. Political proportionality is covered in more detail elsewhere in this paper.

### The scheme of delegation

CfGS is producing separate, detailed, advice for councils on the operation of schemes of delegation.

The scheme sets out the legal arrangements by which certain roles and responsibilities can be carried out by officers and by individual Cabinet members (under executive arrangements).

The officer scheme of delegation needs to specify where executive decisions are delegated to officers – it will also need to set out where local choice functions, and functions of the Council, are so delegated. As we noted above there is scope for confusion here as officers may find themselves making decisions in adjacent areas, where the source for delegated powers in respect of those decisions comes from two distinct and different sources. Hence, the scheme of delegation requires detail and care in its design and application.

The scheme of delegation will put in place clear financial thresholds, under which certain officers will be empowered to take certain decisions. It might also impose an expectation that certain delegated decisions will need to be taken in consultation with Cabinet members, or other members. The requirement to consult councillors in this way cannot be a blanket one – officers need discretion to exercise their powers, and this should not be unreasonably fettered.

The officer scheme of delegation is also likely to include a description of who the “proper officer” is in respect of the transaction of certain statutory duties which are specifically given to officers in legislation.

### Scrutiny

CfGS has produced a significant amount of material in recent years on the components of effective scrutiny, much of which has been gathered together in “The good scrutiny guide” (CfGS, 2019). Government also published statutory guidance on the operation of scrutiny arrangements in 2019.

Scrutiny procedure rules will usually cover issues like:

- Scrutiny’s formal powers (to require the provision of information, the presence of officers at meetings, and responses from the council to reports and recommendations);
- The organisation of agendas, and work programming;
- The transaction of ordinary meetings;
- Scrutiny councillors’ access to information;
- The establishment of task and finish groups;
- Co-option onto committees (where relevant);
- The scrutiny of partner organisations and other bodies;
- Call-in. CfGS has produced detailed guidance on the operation of call-in arrangements.

## Member access to information

Some councils bring together members' rights of access to information together the rights of the public in a single place. Some deal with it separately. Some spread material on member access to information across numerous sets of rules of procedure, which can lead to repetition and the introduction of inconsistencies. Generally speaking, a single, stand-alone protocol on this important topic (referenced prominently in other rules of procedure) will provide members with clarity and assurance.

This will cover statutory rights to information for all councillors (and potentially the enhanced rights available to members of scrutiny committees – see above) as well as the common law “need to know” provisions, generally seen as entitling councillors to access to information and documents where they can reasonably demonstrate that their role requires that information be made available to them.

## Behaviours, ethics, and conduct

A member code of conduct, an officer code of conduct and a member/officer protocol (setting out mutual roles, responsibilities, and obligations) are important features.

Principles around ethical behaviour begin with the Nolan Principles. These fundamental principles should be set out in every constitution and provide the basis for discussion on standards and conduct, applying as they do to both members and officers. They will inform the contents of the following documents:

- The Member Code of Conduct. Many councils have chosen to adopt (with or without adaptation) the LGA's Model Member Code of Conduct (2021). However, in doing so councils should recognise that the adoption wholesale of nationally-produced guidance is likely not to lead to improvements in behaviour. Discussion of what the Code means locally, and how people propose to live up to its values, are important, as we note below;
- The Officer Code of Conduct. This may make reference to a values framework to which officers are subject. It is important that the officer code of conduct is consistent with the officer code, and that it ties in to expectations around performance and line management, including through appraisal;
- The Member-Officer Protocol. It is fairly common for a protocol to be in place which sets out the respective roles and relationships, and shared responsibilities, between members and officers. This should inform the design of the scheme of delegation, and the individual Codes of Conduct – it is about ensuring that there is a common understanding about the behaviours and standards expected. The Protocol should also cover the kind of support that members can expect from officers – the support available to individual political groups (through political assistants and otherwise) and so on;
- The register of members' interests.

This part of the constitution is also likely to set out detail on the recruitment of chief officer posts, and arrangements for discipline, and termination of employment, of chief officers. Member Panels are usually established in the constitution, but convened only as and when to deal with chief officer employment needs. Arrangements here need to take account of employment law and relevant NJC provisions.

## The LGA Member Code of Conduct

The LGA has produced various resources to support councils and councillors to maintain high standards of conduct and behaviour in public life. The LGA has produced:

- Guidance on the Model Code: <https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct>
- Training resources for councils to use with their members, which can be accessed by e-mailing [modelcode@local.gov.uk](mailto:modelcode@local.gov.uk)
- E-learning materials, which can be accessed at <https://www.local.gov.uk/our-support/leadership-workforce-and-communications/councillor-development/councillor-e-learning>

## Standing Orders, and rules of procedure

### Council procedure rules / standing orders

CfGS is producing separate advice on the operation of full Council meetings.

Council Standing Orders tend to be detailed, and with this detail come risk. Argument about the nature of Standing Orders can lead to the overuse of points of order and points of explanation in Council meetings. This is a practice that is legitimate in terms of ensuring that meetings are carried on in a way that is legally compliant, but a preoccupation with process can risk deadening the quality of Council debate.

Standing Orders will provide for things like:

- The role of the Chair of the Council, who may be styled as Mayor (or Lord Mayor, further to letters patent). In some Councils the role of Council Chair (as the person who chairs meetings) is distinct from the role of the “Civic Mayor”, with these roles being carried out by two different people, although this is unusual. It is quite common for the role of a “Deputy Mayor” to exist – this person may go on to be the Mayor the following year or may have been Mayor the previous year;
- The usual format of agendas for ordinary Council meetings, and for extraordinary Council meetings, the Annual General Meeting of the Council and the meeting of Council at which the budget and policy framework is agreed;
- Public access to meetings, and the posing of questions by members of the public, including the timescales within which questions must be notified to the Council, and the right to ask supplementary questions (which some Councils provide for and some do not). In some councils answers to questions are provided in the meeting itself – in some cases this happens afterwards, in writing;
- The making of reports by the Leader, by Cabinet members and by chairs of committees. It used to be common for reports on committee business, and even the minutes of council committees, to be referred to Council for discussion and agreement – this is now unusual, and does not constitute good practice;
- The posing of questions by councillors to executive members, and/or chairs of committees;
- The proposing and seconding of motions by councillors, including timescales for the notification of motions, and arrangements for the proposing of amendments to motions;
- The consideration of call-ins, where a call-in has been referred to Council because an overview and scrutiny committee considers that the decision in question has been made outside the budget and policy framework;
- The length of time that councillors can address the meeting for, in respect of all of the above matters;

- Rules relating to the keeping of order in the meeting;
- Rules about the operation of a guillotine to adjourn the meeting after a certain period even if business has not concluded.

This is not an exhaustive list.

## **Committee, cabinet and scrutiny procedure rules**

### *Executive*

Executive or Cabinet procedure rules will set out the way in which Cabinet meetings will be transacted, and the usual way that the agenda will be arranged for those meetings. It may include the kinds of information we list above for Council meetings in relation to Cabinet meetings. In many councils the public may ask questions at Cabinet meetings but – as with Council meetings – there is usually an expectation that questions be notified beforehand, and usually supplementary questions cannot be asked.

Sometimes here (and sometimes in the Articles) will be a list of the collective responsibilities of Cabinet alongside – if relevant – a description of the portfolios of individual Cabinet members and the names of the people occupying these positions. Sometimes these portfolios will bring with them individual rights to make decisions, although some councils make all Cabinet decisions collectively.

These procedure rules may also be the place to set out a more detailed protocol around how key decisions, and other executive decisions, may be made. This might take the form of flowcharts or process diagrams. It is likely to be necessary to supplement material on decision-making in the constitution with more detailed guidance for officers and members; if so this should also be publicly available.

### *Scrutiny*

Procedure rules on scrutiny will set out the powers of the function in legislation, its role in the authority, its approach to work programming and other matters covered in the 2019 “Statutory Guidance on Overview and Scrutiny in Local Authorities”.

Councils needing more advice on mechanisms to support effective scrutiny should read “The good scrutiny guide” (CfGS, 2019).

### *Committee*

Other, general, procedure rules may apply to meetings of the audit committee, or the standards committee, or committees like General Purposes, if present at the Council. In drafting these PRs Councils will need to have regard of the likelihood that a range of formal and informal guidance will exist around the operation of these bodies.

## Remote meeting arrangements

At present councils in England are not permitted to convene meetings remotely. Members of committees need to be physically present in order to participate.

Some councils do provide for the remote attendance of some meeting participants (witnesses, and other contributors), but this needs to be in a way that conforms with the law.

## Other procedure rules

Procedure rules relating to contracts (including procurement) and financial matters are a major component of the constitution, as are planning and licensing procedure rules.

Detailed information on financial procedures can be found in the CIPFA/SOLACE document, “Delivering Good Governance in Local Government: Framework” (2016): <https://www.cipfa.org/policy-and-guidance/publications/d/delivering-good-governance-in-local-government-framework-2016-edition>. The “Financial Management Code” (CIPFA, 2019): <https://www.cipfa.org/fmcode> also provides important information.

The contents of these parts of the constitution reflect the legislation governing those council functions – this document does not cover those requirements.

## Remuneration

Either in a separate protocol, or included in a section on members’ roles, will be information on councillors’ allowances.

Council has to agree (usually at Council AGM, and subject to the recommendation of the Independent Remuneration Panel) the remuneration for councillors carrying out different roles. All councillors are entitled to a basic allowance to support them to carry out their duties. Other councillors will be entitled to a “special responsibility allowance” (SRA), which will reflect other tasks and roles to which they have been appointed. Being the Leader, being on Cabinet and chairing a committee will usually attract an SRA. Vice-chairs of certain committees, and sometimes ordinary members of planning or licensing committees, may also be entitled to an SRA.

## Company and partnership governance, and outside bodies

Some councils operate trading companies or are part of joint ventures, and other forms of partnership working. Protocols and other rules about how they authority will carry out its shareholder duties may form a part of the constitution.

The constitution may also set out information on councillors’ membership of outside bodies.

## What needs to be in a council constitution

*Extract from Paragraph 3 of the Local Government Act 2000 (Constitutions) (England) Direction 2000. It should be noted that this is not an exhaustive list of \*everything\* that needs to be in a Council constitution. More recent enactments impose obligations on councils to carry out certain functions with regard to governance and decision-making, and specifying these functions in the Constitution is a way of ensuring compliance. For example, councils need to designate a committee as one that undertake scrutiny of the community safety partnership under the Police and Justice Act 2006.*

- a. a summary and explanation of the purpose and content of the constitution;
- b. a description of the composition of the council, the scheme of ordinary elections for members of the council and their terms of office;
- d. the scheme of allowances for members of the authority drawn up in accordance with regulations made under section 18 of the Local Government and Housing Act 1989 (c.42);
- f. a description of the roles of the authority itself under executive arrangements or, as the case may be, alternative arrangements including:
  - i. the functions which may be exercised only by the authority itself or which may to some extent be exercised only by the authority itself (including, in the case of a local authority operating executive arrangements any plans and strategies which are subject to approval or adoption by the authority itself by virtue of regulation 5 of, and paragraph 1 of Schedule 4 to, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (S.I. 2000/2853)); and
  - ii. any rules governing the conduct and proceedings of meetings of the authority itself whether specified in the authority's standing orders or otherwise,
- j. a description of those powers of the executive which for the time being are exercisable by an officer of the local authority stating the title of the officer by whom each of the powers so specified is for the time being exercisable, other than any power exercisable by the officer for a specified period not exceeding six months;
- k. a description of the arrangements for the operation of overview and scrutiny committees including:
  - i. the terms of reference and membership of those committees and any rules governing the exercise of their functions; and
  - ii. any rules governing the conduct and proceedings of meetings of those committees whether specified in the authority's standing orders or otherwise
- l. in the case of a local authority which is operating executive arrangements, a description of the roles of the executive, committees of the executive and members of the executive including:
  - i. the roles, functions, rights, responsibilities and duties of members of the executive;
  - ii. in the case of a local authority which is operating executive arrangements which include a leader and cabinet form of executive, any rules governing the election of the executive leader;
  - iii. any rules governing the appointment of members of the executive;
  - iv. any provisions in the local authority's executive arrangements with respect to the quorum, proceedings and location of meetings of the executive;
  - v. any provisions in the local authority's executive arrangements with respect to the quorum, proceedings and location of meetings of any committees of the executive;
  - vi. any provisions in the local authority's executive arrangements with respect to the appointment of committees of the executive; and vii. in the case of a local authority which is operating executive arrangements which include a mayor and council manager form of executive, any roles of committees appointed by the elected mayor to advise the executive in accordance with paragraphs 3(14) and (15) of Schedule 1 to the Act,

- n. a description of the roles of any committees or sub-committees appointed by the authority in accordance with section 101 of the Local Government Act 1972 (c.70) including:
  - i. the membership, terms of reference and functions of such committees or subcommittees; and
  - ii. any rules governing the conduct and proceedings of meetings of those committees or sub-committees whether specified in the authority's standing orders or otherwise,
- o. a description of those powers of the council which for the time being are exercisable by an officer of the local authority stating the title of the officer by whom each of the powers so specified is for the time being exercisable, other than any power exercisable by the officer for a specified period not exceeding six months;
- p. a description of the roles of the local authority's Standards Committee and any parish council sub-committee of the Standards Committee appointed in accordance with sections 53 or 55 of the Act including:
  - i. the membership, terms of reference and functions of that committee or sub-committee; and
  - ii. any rules governing the conduct and proceedings of meetings of that committee or subcommittee whether specified in the authority's standing orders or otherwise;
- q. a description of the roles of any area committees appointed by the authority to exercise functions in accordance with regulations 16A of the Local Government (Committees and Political Groups) Regulations 1990 (SI 1990/1553) or, as the case may be, section 18 of the Act and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 (SI 2000/2851) including:
  - i. the membership, terms of reference and functions of such committees; and
  - ii. any rules governing the conduct and proceedings of meetings of those committees whether specified in the authority's standing orders or otherwise,
- r. a description of any joint arrangements made with any other local authorities under section 101(5) of the Local Government Act 1972 including:
  - i. the terms of those arrangements;
  - ii. the membership, terms of reference and functions of any joint committees established under those arrangements; and
  - iii. any rules governing the conduct and proceedings of meetings of those joint committees whether specified in the authority's standing orders or otherwise,
- s. a description of any arrangements made with another local authority for the discharge of functions by that other local authority or the executive of that other local authority in accordance with section 101(1)(b) of the Local Government Act 1972 or, as the case may be, Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000;



- t. a description of the roles of officers of the local authority including:
  - i. the management structure for officers of the authority;
  - ii. any arrangements made under section 101 of the Local Government Act 1972 or, as the case may be, section 14, 15 or 16 of the Act for the discharge of functions by officers of the authority;
  - iii. the roles and functions of the head of paid service, monitoring officer and chief finance officer;
  - iv. t
  - u. a description of the arrangements the authority has in place for access of the public, members of the authority and officers of the authority to meetings of the authority, committees and sub-committees of the authority, joint committees established with any other local authority, the executive and committees of the executive.
  - v. a description of the arrangements the authority has in place for access of the public, members of the authority and officers of the authority to information about the decisions made or to be made by in respect of local authority's functions and activities.
- w. a register stating
  - ii. the name of every member of each committee of the local authority's executive for the time being.
- x. a description of the rules and procedures for the management of its financial, contractual and legal affairs including:
  - i. procedures for auditing of the local authority;
  - ii. the local authority's financial rules or regulations or such equivalent provisions as the local authority may have in place whether specified in the authority's standing orders or otherwise;
  - iii. rules, regulations and procedures in respect of contracts and procurement including authentication of documents whether specified in the authority's standing orders or otherwise; and
  - iv. rules and procedures in respect of legal proceedings brought by and against the local authority, and
- y. a description of the register of interests of members and co-opted members of the authority required under section 81 of the Act, together with the procedures for publicising, maintaining and updating that register.
- z. a description of the rules and procedures for review and revision of the authority's constitution and executive arrangements or, as the case may be, alternative arrangements.

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# The use of call-in: guidance for English authorities



This is one of three connected publications, all aiming to provide technical advice on the operation and review of critical elements of governance framework for local authorities in England. Between them, the three publications look at:

- Call-in;
- The operation of schemes of delegation to support decision-making;
- The review of Council constitutions

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Appendix: legislation and statutory guidance

This paper aims to provide advice on the operation of the function of local authority scrutiny committees which provides for the scrutiny of decisions once they have been made but before they have been implemented. This function is better known as “call-in”.

We mainly deal with the operation of call-in under “executive arrangements” – which applies in those councils with a Leader and Cabinet, or Mayor and Cabinet, form of governance.

Call-in is also a feature in combined authorities, and can be a feature in authorities operating under the committee system. These different forms of call-in are discussed, in brief, later in this paper.

### The paper is based on:

- Desktop research into the approach taken on call-in by a range of councils;
- Three webinars organised by CfGS, attended by a total of 68 people;
- The results of recent CfGS annual surveys of overview and scrutiny in local government.

The paper also makes frequent reference to current legislation, and to the only comprehensive formal guidance in place on call-in, the statutory guidance “New council constitutions: guidance for English authorities” (DETR, 2000), which contained a mixture of statutory and non-statutory guidance and a distinct part entitled “Modular Constitutions for English Local Authorities”. Councils are still legally obliged to have regard to this guidance but should note in doing so that, in relation to call-in as well as broader constitutional issues, the legislative framework, and good practice, have moved on in many areas. Critical analysis of the guidance and its ongoing applicability is therefore required.

Following on from a description of the law, the layout of this guidance contains sections headed as questions. These are the relevant questions an authority will wish to ask itself when establishing or revising its call-in provisions. In doing so, we have attempted to answer those questions by reference to the legislation and Guidance but also with examples and common practices that we have encountered, as well as our views as to what constitutes best practice. These questions are also something we will return to and continue to ask of colleagues over time to discover novel practices and good ideas.

Further to this paper CfGS will produce a list of illustrative examples of call-in procedures and protocols, and a further “example” protocol that puts into practice some of the principles that we set out. Both of these will be accessible at [www.cfgs.org.uk/call-in](http://www.cfgs.org.uk/call-in) in spring 2023.

This guide covers the law relating to call-in for English local authorities only. Call-in is also a feature of the governance framework for Welsh authorities, but the legal basis is different. Welsh members and officers should have regard to separate statutory guidance produced by the Welsh Government<sup>1</sup>.

Call-in arrangements in combined authorities are different to those described in this paper. More information can be found in “Combined authority scrutiny: a plain English guide” (CfGS, 2021).

The paper has been produced by the CfGS using funding from HM Government and with the support of Bevan Brittan LLP, Lawyers in Local Government (LLG) and the Association of Democratic Services Officers (ADSO).

<sup>1</sup> The Welsh Government issued draft statutory guidance on call-in in March 2022. It can be found at section 9 (p95) of “Local Government: Guidance for Principal Councils” (Welsh Government, 2022): accessible at <https://www.gov.wales/sites/default/files/consultations/2022-03/consultation-document-wg44742.pdf>.

# 1. Introduction: the purpose of call-in

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## (a) What is call-in?

Councils are democratic institutions in which elected councillors are the principal decision-makers.

Where councils operate under what are called “executive arrangements”, only a comparatively small number of councillors are involved in day to day decision-making, through the body known as Cabinet. In order to bring rigour, scrutiny and accountability to this decision-making, a function called “call-in” exists.

Call-in is a safety valve to delay and interrogate important executive decisions. It provides a way for councillors who do not sit on Cabinet to ask that particular decisions are reconsidered by the person or people who originally made them.

Call-in also has a role in some authorities which operate using the committee system form of governance, but in those places it may look rather different. We explain this in more detail in section 1d ‘What is call-in for in a committee system authority?’

## (b) What are councils obliged to do?

The legal detail is provided in the Appendix – this section provides a general overview.

The phrase “call-in” is not used in legislation, but it is there that the central powers can be found. There is a two-step legal process for the establishment of call-in at law.

1. s9F(2) of the Local Government Act 2000, as amended. This provides the general power for overview and scrutiny committees to review or scrutinise executive decisions;
2. s9F(4) of the same Act, which provides a specific power to review or scrutinise a decision made, but not implemented.

This second power itself provides scrutiny with the basis for further powers:

1. To recommend that the decision be reconsidered by the person who made it;
2. To arrange for the call-in to be considered further by a meeting of full Council. Usually a reference to full Council will be made only where a scrutiny committee concludes that an executive decision has been made outside of the budget and policy framework, which we explain in more detail at section 5a) ‘Referral to Full Council’.

In exercising these powers scrutiny committees can benefit from the other, general, powers available to scrutiny committees – namely, to require the attendance of Cabinet members and council officers, and to require that information relating to the decision be provided.

## (c) What is call in for?

The legislation provides little direct advice on what call-in is “for”.

Call-in cannot “overturn” a decision. A call-in can result in a recommendation that a decision be reconsidered or withdrawn, but nothing more. It is best regarded as an urgent and serious request from councillors to the executive decision maker that they should think again. That request should be seen as notable because it is a function that should only be used in exceptional circumstances and, such a request, if then made, will come from a review carried out by a cross-party committee.

In practice, call-in has been seen by councils as having a number of purposes, including:

- Highlighting the presence of public contention in respect of a particular decision;
- Highlighting / surfacing serious political disagreement and providing the opportunity for political accountability;
- Providing fuller information, with a view to assurance on certain decisions where that information may be absent in an officer report or background papers.

In all cases, call-in is about providing an opportunity for challenge as a long-stop – when other attempts to influence or challenge a decision have failed.

The use of call-in can also be seen to be embarrassing and frustrating to a local authority and its leadership. Delay is inconvenient, and frequently costly. The wish to avoid call-in is therefore also seen as an incentive for council leaderships to mitigate the risk through early engagement with overview and scrutiny, backbench members and opposition groups – especially where decisions are likely to be contentious.

CfGS does not, however, consider that the use of call-in, or the threat of its use, should be seen as a failure. Quite often its use – presenting as it does a risk for the executive, of embarrassment or delay – has been seen to serve to provide opportunities for earlier scrutiny involvement in decision-making. Pre-decision scrutiny, and/or early involvement in policy development by overview & scrutiny committees and members, is likely to be more productive than call-in. It is also for this reason that CfGS adds its voice to the Guidance and Modular Constitution (para 16 above/attached), that use of call-in should certainly be infrequent and should only be used in exceptional circumstances.

In the past CfGS has described call-in as a “blunt tool”. There can be a perception among members that call-in can be used to reverse a decision. It is important to emphasise that this is not the case. More often the challenge is on the quality of the information accessed by the decision maker to arrive at what should be a robust and evidence-based decision. When used inappropriately or indiscriminately it may cause frustration (in particular to members who use it hoping or expecting that it will lead to a change in the decision in question).

Councils where call-in is a regular occurrence may need to reflect on members’ understanding of the purpose of call-in and what other mechanisms are available to them to challenge decisions. This should not be about raising the bar for a call-in to be valid but reflecting on whether sufficient opportunities exist for a wider range of members to be involved in policy development and decision-making – feeding in and influencing at the right stages. The frequent use of call-in is not always evidence that there are weaknesses in the corporate governance framework, but conversely it can be a sign of the existence of those wider problems.

For this reason, the presence of clear rules around call-in’s operation is important. Critically this is likely to include the use of criteria to determine whether a call-in is “valid”. The use of criteria will make call-in more focused and reduce the risk that it will be used for exclusively party political reasons – criteria also frame the nature of a debate in committee in a way that makes it more likely that a reasoned, informed outcome will be reached.



At their heart, all of the call-in practices continually being developed and undertaken by local authorities that we have seen endeavour to best achieve that central aim of how best to achieve that balance between overview and scrutiny effectively holding the decision-maker to account, being able to question decisions before they are implemented and at the same time not impeding the effective, efficient and business like decision making required by the executive or the day-to-day management and operational decisions taken by officers. Colloquially put, this is a deal to be done between the executive cabinet or policy committee members and the overview and scrutiny committee members to allow for healthy debate and examination of the issues on important decisions whilst not getting in the way of the Council being able to go about its business and achieve the things that almost all Members universally agree needs to be done.

This ‘deal’ is, as reflected above, one where the executive decision makers agree to delay implementation of certain decisions to allow for review and, if necessary, referral back for re-consideration. This, in turn, is in exchange for the adoption of a set of criteria such that only decisions deemed worthy of review by the overview and scrutiny committee are called-in by the process and reviewed, as a matter of exception, and that the remainder of executive decisions made by members and officers, the ordinary, administrative or uncontroversial elements of the local authority’s business, may continue to implementation unhindered.

The questions the authority will want to ask itself in setting that criteria out are explored below. This includes examples of practice in how differing local authorities have addressed those questions and how application of the Guidance and Model have moved on. We will say where those examples are at the extreme of things and where we consider those examples to be common or best practice.

#### **(d) What is call-in for in a committee system authority?**

Councils operating a committee form of governance do not have to have an overview and scrutiny committee, and as such do not need to have arrangements for call-in. However, if an overview and scrutiny committee *is* appointed, then call-in arrangements *must* form part of the way that it works.

Many of the “purposes” of call-in, set out in the section above, apply to an extent in committee system authorities. However, the decision-making dynamics are different.

Decisions in the committee system are made in committee, by cross-party groups of members. This makes call-in less obviously necessary, because a wider group of members and perspectives will arguably have played into the debate that precedes a decision being made. A call-in could, therefore, simply reproduce this earlier debate, while adding little practical value.

Call-in in committee system authorities will therefore need to focus on a rare set of circumstances – where some members feel that the earlier debate was deficient for want of critical information, or possibly that the committee did not have the power to make the decision because it was made outside the budget and policy framework. Councils can expect that the threshold for valid call-ins will be higher than they would be in an authority operating executive arrangements.

The section on criteria (section 3d, ‘What will a “valid” call-in be’) provides more insight to support thinking on this issue.

## (e) How does call-in fit into the wider governance framework?

Call-in is one of several checks and balances present in the constitution to ensure effective decision-making.

Call-in can be seen as part of a balanced system by which effective, consistent decision-making is supported and strengthened by rigorous – and proportionate – member oversight. Call-in is a “longstop” – a process that can be relatively infrequently used because other constitutional systems work alongside it to ensure that decision-making overall is of a high quality. This safety valve is vital if serious issues emerge about a given decision which seem, in members’ views, to demand that that decision be revisited.

In this way, members and officers should avoid thinking of call-in as a standalone feature of the governance framework.

This is backed up by the Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities, which makes the point that call-in is not a substitute for early involvement in the decision-making process, nor is it a party political tool;

Call-in should be seen alongside other systems, which include. .

These systems include:

- The framing, and agreement, of the budget and policy framework (as determined by the authority) on an annual basis;
- The Annual Governance Statement, and the review that precedes it;
- The oversight provided by a Governance Committee, including audit committees, which “own” member oversight of governance issues, which can also be a useful way of monitoring the effectiveness of democratic processes and decision making and keeping related processes under review and addressing concerns;
- The general decision-making requirements and publicity relating to “key decisions”;
- The work of scrutiny in general, and in particular the role of pre-decision scrutiny;
- The way that performance management, and risk management, is carried out and overseen by members;
- The council’s finance systems, including the financial control environment and in-year financial monitoring as well as longer-term financial planning (which sets the framework within which decisions are made); and
- The decision making principles<sup>2</sup> and the legal and corporate requirements for the drafting of decision reports before any decision is made, including:
  - The requirement for legal and financial (and often other forms of) signoff for reports;
  - The requirement to present alternative options;
  - The requirement to consider equality, and human rights;
  - The requirement to present background papers.

All of these connected systems are essential to, and a reflection of, the authority’s culture of decision-making and the nature of relations between members. Where a mature culture of decision-making exists, call-ins will be few and far between – not because rules are designed to make it difficult to call decisions in in the first place but because the need for that safety valve is less pressing. Members and officers all, therefore, need to take it seriously – seeing it not as a procedural annoyance to be managed away but an important, if sometimes poorly-used, tool to assure decision-making probity.

<sup>2</sup> These principles form part of the Modular Constitution, and as such have been adopted by most councils in either this form, or using very similar wording.

## 2. Where call-in rules should sit

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There is no “right place” for call-in rules to sit in the constitution. In most authorities they reside in the overview and scrutiny procedure rules. In some authorities, however, they form part of executive/ cabinet procedure rules, in others as part of the council procedure rules (standing orders) and in others they can reside in the overview and scrutiny procedure rules or in a separate protocol.

It is certainly the case that many authorities provide that the rules about publication, call-in criteria and exceptions are contained in the constitutional rules but that the procedure of the call-in meeting itself, and sometimes prior steps for resolution, mediation or the variation and agreement of that procedure, are set out in a separate protocol or procedure note. This separation allows for flexibility where needed in order to react to the requirements of the particular circumstances, including technical detail, evidence and witnesses and public participation and time management in controversial matters.

Following this pattern, enough detail is needed that councillors considering calling a decision in can be confident in the rules that will apply to that request and how the process will function. For this reason, it may be sensible for basic rules to be set out in the constitution but for more detail to be provided in written guidance provided to members, which should itself be published in the interests of transparency. Drafting should highlight the most critical elements. For example, the use of criteria to determine call-ins’ validity, the person or people making a judgement about whether call-ins should go ahead, and the likely presence of restriction on a call-in’s requestor being able to take part in the vote at the committee where the call-in is considered, although they may be able to contribute to discussion<sup>3</sup>.

Additional written guidance allows for clarity and transparency and limits the extent to which officers have to provide advice on a case-by-case basis. Guidance cannot account for every circumstance, but it can explain key elements of the process and – importantly – provide justification for why they exist.

<sup>3</sup> Where a requestor is an ordinary member of the committee in question, procedure rules may require that they be substituted for the meeting.

## 3. Addressing what may be called in, how and why

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### a. What decisions should be subject to call-in?

This is a fundamental part of establishing the governance process of call-in. Strictly speaking, all executive decisions are subject to review and, in so doing, are subject to the risk of delayed implementation that comes with that whilst that review takes place.

In reality, it would be unreasonable for *all* executive decisions (which would include executive decisions delegated to officers) to be subject to call-in, and the power in legislation was never developed for this purpose. In fact that guidance explicitly says, “day to day management and operational decisions taken by officers should not be subject to any call-in procedures”.

Instead, councils set out in the constitution which decisions may, or may not, be subject to call in – and the criteria which should apply to determining whether a call-in is valid, which we discuss later.

#### Key decisions

When it comes to what extent to exclude call-in from applying to operational decisions, most use the more straightforward approach that authorities are accustomed to for differentiating every day decisions from ones of potential importance, that of a ‘key decision’. This is also helpful because with the making of a key decision also comes the requirements around it on publicity, setting out what it is to be about, who is to make it and what documents (including the report) on which the decision-maker is to consider when making the decision.

A “key decision” is defined by regulation 8 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, repeating the earlier 2000 regulation, which states that it

“means an executive decision, which is likely—

- (a) *to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority’s budget for the service or function to which the decision relates; or*
- (b) *to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority”.*

Of course, this begs the question of what “significant” then means for these purposes. Usefully, the Guidance does set out some suggestions, saying:

“In considering whether a decision is likely to be significant, a decision maker will need to consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality affected.”

At its most restrictive, some councils will use key decisions as the only criteria for what may be called in, applying it to cabinet and cabinet member decisions and excluding all decision made by an officer from being called in.

The most common approach, and that which we would consider best practice, is that all cabinet or cabinet member decisions are potentially subject to call-in, as are those key decisions made by an officer of the authority.

There are a class of such decisions that are considered especially urgent, and to which call-in should therefore not apply – this is discussed further below.

## b. For how long should the implementation of a decision be delayed, to allow the time for a call-in to be requested?

Delay prior to implementation is fundamental to call-in working at all.

In addressing this question, the statutory Guidance states that the provisions of a local authority's executive arrangements "may include a standard period of delay before decisions are implemented", not must.

Once it has decided what decisions call-in may apply to therefore, each Council must decide the length of delay that is to apply to a decision before it is implemented, thus giving time for call-in to take place to trigger a review and the statutory delay provisions to take effect whilst the review meeting and any re-consideration takes place.

The delay suggested by the 2001 Guidance was to allow **2 clear working days** for the decision notice or minutes to be published and then **5 clear working days** from publication to allow for a call-in to be requested.

This 2 days to allow for publication is followed by most authorities as a standard target for both member or officer decision notices and draft minutes. The 5 days to allow for a call-in request following publication of the decision is by no means followed by all authorities. Whilst most do, many authorities find 3 or even 2 days post-publication to be a quite adequate time period to allow for call-ins to be requested – although this will depend on the number, and type, of councillors required to request a call-in for it to be valid. Authorities that allow for longer than 5 days are quite rare.

## c. What exceptions should apply?

Not all decisions should be subject to delayed implementation so as to allow for a call-in to take place.

### Exception 1: Urgency

As the Guidance put it, *“the executive will, from time to time, need to take decisions that need to be implemented quickly”*. Under these circumstances the powers around call-in can be curtailed. Removal of call-in is usually couched in terms of it being for reasons that it would prejudice the interests of the Council, for safety reasons or because it is in the wider public interest to do so.

In some authorities, the provision for call-in is removed from a decision simply because the executive, be that cabinet, Leader or other cabinet member or an officer, decides that is to be the case and records that at the time of making the decision for the notice or minutes.

Most authorities still follow para 3.79 of the 2000 Guidance and the modular constitution and exclude a decision from call-in and delayed implementation by use of an urgency provision that requires the consent of the authority’s chair/civic mayoralty to agree that must agree that *“both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency”*. Some councils refer to the chair of overview and scrutiny instead.

Other authorities are more restrictive and, in addition or in replacement, require the chief executive and/or monitoring officer to agree to that and also expressly define that a decision will only be urgent if any delay likely to be caused by the Call-In process would seriously prejudice the Council’s or the public’s interest.

Some councils operate a set of “general exception” urgency arrangements, “special urgency” arrangements and “emergency” arrangements, for decisions of different degrees of immediacy, processes for which affect call-in and member oversight in different ways. While potential complicated, this does mean that the right to call a decision in is wholly absent in only the most extreme of circumstances.

The decision to remove call in and the reasons why the delay to implementation of the decision should not be applied are usually required to be reported to a meeting of the full authority.

Alternatively or in addition, there is often an annual report and review on these matters.

### Exception 2: Only one call-in per decision

Guidance says that *“the provisions should ensure that a decision maker could only be asked to reconsider a decision once.”* This is almost universally the case, as the alternative is a potential merry-go-round of review and call-in being used as a means to so delay a decision that it is never implemented. When a decision is re-considered by the decision maker, that decision is then implemented whatever it may be. Nonetheless, it must be remembered that this provision must be expressly included in the constitution to be of effect.

### Exception 3: A limit on the number of call-ins overall

A final exception might be that call-in is limited to a finite number of times per year or quarter, following which no further call-ins would be permitted of any decision within that period. This is an option operated by no authority to our knowledge, on the basis that it is seen as not being in accordance with the principles of engagement and, quite simply, there can be no accounting for what contentious decision might yet be made.

#### d. What will a “valid” call-in be?

We have already noted that call-in must be subject to some form of restriction – in keeping with the fact that it should be seen as a long-stop, used rarely.

In order for this principle to be upheld, call-in arrangements must, practically, place hurdles which have to be overcome for a call-in to be considered “valid”. We should stress that putting such hurdles in place is not only legal, it is also a specific component of the legislation and formal guidance on this subject. Not to do so risks call-in being ineffective.

These hurdles should not be designed to thwart members’ legitimate right to call-in decisions. It is likely that where a Monitoring Officer is able to give advice to councillors wishing to request a call-in, a request which might on the face of it appear invalid could, with revision, be refocused into one that is legitimate. But both members and officers will need to understand that requests need to be reasoned and justified, which brings with it the need for judgement and discretion.

##### Hurdles to clear for a call-in to be valid

There are three main hurdles that can form part of a council’s call-in arrangements:

- Requiring a certain number of councillors to request a call-in for it to be valid;
- Requiring that certain criteria (in terms of the reasons for the call-in) to be met for the request to be valid;
- Requiring that councillors have not had a prior opportunity to consider and debate the decision.

##### Hurdle 1: Requiring a certain number of members to request a call-in for it to be valid

Almost every authority has adapted the only suggestion in this respect by the Guidance, which was that a “safeguard which could be adopted in the executive arrangements could be to include provision requiring a certain number of committee (or local authority) members to call in a particular decision”.

This is where the consensus ends, however, as the adoption of this suggestion over the intervening twenty-plus years has produced the widest variety of approaches. Often, councils’ approach has changed as political balance, and political Group dynamics, have changed. Requirements that may seem fair and proportionate with one particular balance of political representation may look less so when the numbers change after an election, which is why it is important to keep this under review.

The original drafting in the Modular Constitution suggested that 3 councillors (of any group, and sitting on any committee) would need to make a call-in request for its to be valid. This seemed a reasonable number as that number gave the request a certain legitimacy. That said, the size of the council in question does have an impact here – 3 out of 30 members requesting a call-in is of a different order to 3 out of 97.

Alongside that straight consideration of a number of members, several other potential requirements have been considered, including:

- Whether the councillors making the request need to sit on the same overview and scrutiny committee, so that two or three members of a ten or twelve seat committee need to request the call-in for example. This can be challenging where a council has multiple groups, or many independent members, with certain groups not being represented on every committee;
- Whether councillors making the request can all be from the same party, or need to represent different parties. This can help to ensure that call-ins reflect matters on which there is cross-party concern, although in councils with only one minority group, or none, this might not be reasonable.

As can be seen, the application of who may trigger a call-in varies according to local circumstance and is very much shaped by the experiences of each authority. That variety has now given us examples of:

- The signatures required to trigger a call-in is not members of the council but electors registered within the authority's area, in one case as low as 10 and in another 20, so as to allow for maximum engagement and consideration of significant issues where it is seen to matter by the electorate;
- a town or parish council or a recognised residents group that may submit a call-in request; through to the other extreme whereby
- the call-in mechanism is only triggered on a request submitted by half of the whole membership of the authority, which is seen as a response to a change in governance systems and their previous experiences.

It is the CfGS view is that these sort of requirements on numbers/types of members, bodies or persons requesting call-ins should be clearly justified, and reviewed following each election and after a change in political control to ensure their ongoing fairness and applicability as endorsed by the authority.

## **Hurdle 2: Requiring that the call-in request meets specific criteria, in terms of its substance**

A widespread development has been not only requiring that there is a number of requestors needed to trigger a call-in but that request is then only valid when it is accompanied by the meeting of other tests and, in particular, the reasons for the request.

### *Why require criteria to be met?*

As well as providing an additional safeguard to prevent abuse of the review and delay process, requiring that reasons be given satisfies four objectives in itself, to assist the processes and garner support for the legitimacy of the call-in process from members. We consider these to be:

1. It helps to ensure that call-ins are focused on those matters where they can add most value
2. It assists those requesting call-ins to marshal their ideas, and for others on the committee conducting the review to contribute productively to the debate;
3. Potentially it means that poorly thought-through call-ins can be avoided; and
4. It clarifies the grounds on which the decision is to be challenged by, for example, pointing to specific flaws in the process, which may be embarrassing to the decision maker and which they may want to correct, or it can point to flaws in the process such as poorly written reports or vague recommendations.

The over-arching object of requiring reasons is, however, to ensure that the call-in may be reasonably reviewed by an overview and scrutiny committee, often with regard to the legal principles that might apply to judicial review by the courts, but principally to return to that concept of the balance between reviewing decisions by exception, thus allowing scrutiny and the ability to question decisions before they are implemented whilst allowing effective and efficient decision making by the executive. A lack of criteria to frame the subsequent committee discussion means that the call-in exercise risks being unfocused and insufficiently directed towards what may, or may not be, the deficiencies of the decision.

The CfGS view is that there should be a requirement to give reasons for call-ins, for the reasons described above, but that authorities should ensure that they interpret this requirement permissively. It is also worth noting our view that, as reasons are likely to focus more on procedural issues, call-in is essentially a political process and it is entirely legitimate for the merits of a decision to be discussed as well.



### *Which criteria?*

Members might have a range of reasons to want to call a decision, but we have found that these generally fall into three different categories:

- The process of decision-making. The question here is has there been some flaw or deficiency in how the decision has been reached? This might be
  - a lack of consultation with the public,
  - important evidence that has been disregarded
  - insufficient information being provided in support of the decision-making process, which may itself include<sup>4</sup>:
    - A lack of a clear recommended decision in the relevant officer report;
    - A lack of reasons for that recommendation, and/or for the final decision itself;
    - No details of other options, or consultation carried out;
    - No, or inadequate, consideration of legal and financial issues;
    - No, or an incomplete, list of relevant background papers;
    - Omission of key facts on which important aspects of the report are based.

Criteria here may include reference to the decision-making principles in the constitution (which we set out in the Introduction) – including clear evidence that there has been deviation from these principles.

- The merits of the decision itself. Members may disagree with the substance of the decision, because they feel it is the wrong political choice. This is a more overtly political reason to call a decision in, but it can allow for interrogation of the why, as in why was this decision not taken and not an alternative option? What might an alternative option be?
- It may also be that they consider a decision has been made outside the budget and policy framework, in which case a recommendation can be made to full Council on how to take the matter forward. This is, however, very rare (and is covered in more detail below). It may be that “process” issues are dealt with by reference to the decision-making principles in the council constitution – we set this out in more detail below.

### **Hurdle 3: Taking into account prior opportunities to “feed in” to a decision**

Some authorities consider that, if members have already considered an issue at an overview and scrutiny committee, it is reasonable to take the approach that there should not be a further opportunity to use call-in to hold the decision-maker to account. Indeed, this is specifically provided for in the Guidance, which we highlighted in the introduction.

This is a matter of degree. Any previous consideration would need to have been in respect of the specific decision proposed to be called in, rather than any recent debate on the subject in general. Call-in procedures would also need to provide assurance that any previous consideration was substantive and meaningful, and that the call-in process could not add to it. In our view the presence of a pre-decision scrutiny process should not automatically remove the need for call-in later in the process.

<sup>4</sup> The following list derives from the Local Authorities (Executive Arrangements) (Meeting and Access to Information) (England) Regulations 2012, which require that report contain this information “as a minimum”.

If a council did want to restrict opportunities for call-in here, it would be likely to apply where the council operates some kind of “pre-decision” scrutiny process. This is where, for example, a draft cabinet report is brought to an overview and scrutiny committee some weeks before an executive meeting where a decision is proposed to be made, with councillors being given the opportunity to influence the content of that report. This may make call-in less likely but should not – in itself – be a factor in rejecting a call-in. Members may legitimately feel that pre-decision processes have not had due regard to their opinions, or that procedural and substantive flaws have been revealed later in the process.

Some councils simply make use of other informal processes to reduce the likelihood of call-in, such as regular all-member briefings on forthcoming issues, meetings for group leaders to discuss decisions which might cause contention, one-to-one meetings between representatives of groups not forming the cabinet and senior officers. Keeping lines of communication between the administration and backbenchers – taking a “no surprises” approach to decision-making – should necessarily reduce the sense that call-in is necessary.

In saying this, it is important that such “informal processes” do not take the place of necessary public scrutiny. Informal briefing is sensible under any circumstances, but it should not automatically preclude the use of call-in where justified.

#### Using a form

Many councils provide members with a “form” to use to request a call-in. The validity of a call-in should not rest on councillors’ correct use of a form but it is a useful way to ensure that requests are focused (particularly where multiple criteria for validity to exist).

#### e. Who should determine that a call-in is valid?

A requirement for evidential, and other, criteria raises some challenges because it imposes on the person or body judging whether or not the call-in is valid the need to make a judgement as to whether the reason(s) given is/are “good enough”.

Essentially, whether the reasons or other information or evidence submitted to support that a request for review is sufficient to meet the criteria to proceed is one for the overview and scrutiny committee. As a result, some councils divide the criteria above, with the proper officer (the person assigned to take responsibility on matters relating to democratic and committee business) calling the meeting on receipt of sufficient requests and the first agenda item for the overview and scrutiny committee being to consider whether it meets the criteria and whether or not to proceed to review.

In practice, however, this is rarely the case. Practicality dictates that this decision falls to a person to consider prior to the calling of the overview and scrutiny committee. This could be:

- the chair of the reviewing or over-arching strategic overview and scrutiny committee;
- the statutory scrutiny officer;
- the chief executive; or
- the monitoring officer.

Whoever makes that judgement, it would need to be clear and consistent. We would also suggest that the approach taken by the decision-maker is permissive.

This means that in cases where the “validity” of a call-in may be marginal (particularly where a subjective judgement is being made on the extent to which a request meets certain substantive criteria, as we set out in Hurdle 2), the approach should probably be to allow the call-in.

This is because the place for debate on the substance of the call-in is the meeting itself; the process for determining the validity of a call-in should not be about testing, and pre-empting, those arguments. This suggests that if members requesting a call-in are able to articulate a reason why, in their view, procedural or substantive reasons require it, it should be allowed to proceed if it complies with the council's own rules.

Given the process and legal concepts involved, as a matter of general principle it is the CfGS view that the decision on validity should be made by the Monitoring Officer.

Whatever criteria are applied by an authority, it is, in the CfGS view, key that it ensures that a call-in is an accessible tool while recognising that its use as a "long stop" means that call-ins should have wide support.

**f. Should call-ins alleging that a decision was not within or contrary to the budget or policy framework be treated differently?**

Requestors may consider that an executive decision is procedurally flawed because it has been made outside the budget and policy framework. On this point, the Monitoring Officer, and the s151 officer, will need to provide advice. The suggestion that a decision has been made which is flawed in this manner is a serious one, as it is potentially unlawful, and these two officers will have a central role to play in testing members' assertions.

It may be that those assertions should be dealt with in committee, if it is not possible to provide the members in question with reassurance earlier in the process.

It is important to note that this is the only called in matter which the Guidance considers worthy of the overview and scrutiny committee referring to a full authority meeting. That reference is covered later in this guidance.

## 4. Process and the Meeting

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### (a) Outcome of mediation or round table discussions

Some councils include in the process a step between receiving a valid request for call-in and the meeting of the overview and scrutiny committee to hold the review. This may include a mediation process or a round table discussion between the lead requestor(s) of the review and the executive decision maker or chair of (and/or proposer of the resolution at) the decision-making meeting. Where a round table meeting is held, the chair of the overview and scrutiny committee may also be present for some or all of this discussion.

This sort of meeting has, on occasion, been found to have resolved the issues in advance, without then the need for the call-in review to be held – as long as it is not misused as an attempt to put pressure of requestor(s) to withdraw the request.

In any event, it has been found to be helpful for the chair and supporting officers in preparing the report and managing the process and timing at the overview and scrutiny committee conducting the review.

### (b) How should more than one call-in on the same decision be approached?

It is possible that more than one valid call-in request is agreed in respect of a specific decision. This is particularly likely where the bar for a valid call-in is comparatively low, and/or in the case of an authority under no overall control.

It is not the case that once a valid request is received, the clock on the post-decision period stops in which a call-in might be received and no other call-ins can be accepted.

We have seen three possible solutions to this:

- A “first come first served” approach, whereby the first valid call-in is taken forward but any subsequent requests are denied.
  - This approach is considered likely to be unfair on members, and may well cause political difficulties;
- An approach which would see two or more call-ins on the same subject being considered sequentially at the same meeting
  - This approach could well be duplicative and potentially confusing, if not contradictory and disruptive;
- A “merged” approach, whereby liaison is undertaken with all requestors wishing to call-in a decision to try and ensure that the reviewing overview and scrutiny committee can consider concerns holistically
  - It is felt that the resulting procedure and decision making should, in most of these circumstances, be the fairest and most efficient in terms of good administration.

It is the CfGS view that, where two or more valid call-ins are requested on the same issue, the proper officer should liaise with those requesting (and with the relevant O&S Chair) to ensure that the matters can be considered together, without prejudicing either individual request or requesters.

If agreement cannot be reached – because the requestors disagree or for any other reason – the Monitoring Officer will need to find a fair solution that does not unreasonably disadvantage the council or any requestor. This might be to hold a single evidence-gathering session on the topic in committee, but to allow separate groups of requestors to make their case at the start, and for separate votes to be taken after. Readers will recognise that this, or another solution, is not optimal.

### **(c) How might timescales and the council calendar be best managed for call-in?**

It is important that the process is as streamlined and efficient as it can be. This means setting sometimes challenging timescales for the convening of the call-in meeting itself and keeping to them. Usually, it will be necessary to convene a special meeting. Occasionally, in those authorities where call-ins are common, we have found that democratic services teams manage to keep aside committee dates to accommodate such meetings as this is easier than trying to agree new dates based on availability of members, officers and rooms. This is done by either placing reserve dates in the calendar for the use of committee to hold a review at short notice or place formal dates in the calendar with the understanding that these meetings will be cancelled when not required.

Generally, a meeting will need to be called to take place within 10 working days of the end of the call-in period, which is the timescale contained in the 2000 Guidance.

This is intended to provide enough time for a report to be drafted and then the meeting to be called with the requisite 5 clear days' notice. As said, this is a very tight timetable, and officers putting forward key decisions where a call-in is likely will need to think about this earlier in the planning stage.

It is the CfGS view that a 10 working day period (beginning with the end of the call-in request period itself), within which a call-in should result in the matter being considered substantively by an overview and scrutiny committee, should be seen as standard and applied wherever practicable. Again, this seeks to balance the need for scrutiny and the need for efficient and effective decision making.

### **(d) Who drafts the report, and what should it say?**

The minimum information presented to the reviewing overview and scrutiny committee should be copies of the decision itself, together with any accompanying reports for the decision maker at that time, and a copy of the request for call-in.

This will often then include a covering paper setting out the reasons for the call-in given by the requestor, together with any comments on validity made by the monitoring officer (or Chair).

Those requesting the call-in will not usually have the opportunity to add their own covering report or to expand at length and in writing their own reasons for calling the decision in (although a call-in "request form", which we covered briefly above, may provide some of that information).

The opportunity is likely to exist for members to request that more information be provided in respect of the decision. Background information and other data likely to be relevant can and should be provided, especially if part of the reason for the call-in is member concern over a lack of supporting information.

CfGS considers that an agenda for the reviewing overview and scrutiny committee should be fronted by a report(s) by officers and should, at the least, reflect the same material that has gone to decision-makers, but those requesting call-ins may reasonably expect additional information to be provided.

The report and agenda should also set out the procedure to be followed at the meeting.

A call-in review is not necessarily an adversarial matter but 'a review', and as such that the procedure may include additional information and attendees to be included that are considered by the Chair, committee members or officers to be useful and may not purely be that or those requested by the decision-maker or those requesting the call-in.

## (e) What will the procedure be in the reviewing committee?

### (i) Who is invited to participate?

Call-in meetings are held in public and provide an opportunity for the decision-maker, and others, to be held to account for given decisions. In certain matters, it may be the only time when there has been the opportunity to discuss the issue in public. It is important that there is an opportunity for issues to get a full airing, and for this to happen relevant witnesses need to be invited.

At a minimum this includes:

- Those requesting the call-in. This may be for a set time and from each or just by a lead requestor for review (or shared time if more than one call-in)

It is worth noting that many authorities do not normally allow those requesting the call-in to also be members of the reviewing overview and scrutiny committee conducting the review, in the same way that the decision-makers are not, on the basis of the natural justice principle that one may not be a judge in one's own cause. This means that, in practice, while requestors may be able to be present and even to participate in debate, they may not be able to vote;

- The decision-maker. The decision-maker will need to have the opportunity to speak to the issues involved and to respond to questions;
- A relevant senior officer. An executive decision submitted to members will have been the subject of a report written by an officer who should be present to answer questions.

It is common that the requestors and the decision-maker(s) are permitted to request 'witnesses' to attend the meeting to support their view. This may be relevant officers but may also be those considered experts on a matter or representatives of those members of the public or community affected by the matter. Likewise, the Chair and members of the committee may want to gather evidence from others likely to be affected by the decision, although with limited time at their disposal it might be challenging to do so in a way that is fair.

Where this is the case, considering who, how many and how long they may speak for is an essential part of the meeting procedure or protocol, which will need to be determined by the Chair, usually in consultation with representatives of members of the committee from other political groups and the monitoring officer, as part of the pre-meeting and agenda setting process.

Call-ins are likely to happen in respect of high-profile issues. Members of the public (and others with an interest) are likely to attend the meeting although they will have no formal right to address members or to participate otherwise. In addition to considering formal invitations as above, some authorities, under certain circumstances, consider it appropriate for the Chair to invite those attending, in addition to any other people from outside the authority invited to give evidence, to come forward at the meeting to assist the committee. This has been found to be useful, for example, to get a sense of:

- community needs or impacts;
- the community impact of a decision;
- the nature of a consultation exercise which may have informed the decision; or
- stakeholders' views on issues where requestors may feel the decision maker gave too little or too much weight.

In engaging the wider public, officers supporting the committee, and the committee itself, will need to have regard to the way it communicates the role and purpose of call-in. In particular, the fact that the committee cannot "strike down" a decision or force a change in direction is important. It is likely that in communicating its work on call-in, a scrutiny committee will need to engage with the council's corporate communications function. Expectations will therefore need to be managed.

CfGS considers that, whilst it is the case that only members of the committee have a right to address the committee, and an invitation to others is at the discretion of the chair, the chair and others should have regard to the likelihood that high profile and complex decisions are likely to have a range of stakeholders, who may deserve the opportunity to be heard, within the confines of what is a time-limited process.

## (ii) The way discussion is conducted

Although detailed provisions about the conduct of call-in meetings probably do not need to form part of an authority's rules of procedure, it is common for there to be a set procedure contained in a protocol or other document and that this is known by members and agreed in final form and shared as part of the agenda setting process. At the very least it is the norm for there to be a guidance note for chairs and members of the overview and scrutiny committee, not least for reasons of consistency.

The level of formality with which call-in meetings are carried out will vary from authority to authority.

In some authorities the way the debate is “managed” is entirely a matter for the chair. Elsewhere the call-in provisions will set out certain requirements, including set strict time limits for a lead or secondary requestor, decision-maker and other presenters or witnesses to address the committee. This latter approach is common where the authority has a history of call-in that has proved to be fractious. Whatever happens, arrangements cannot be made up on the fly. Having a clear sense about how call-in meetings can be run fairly will require an agreed procedure. This may include:

- An introduction by the chair, setting out the reason for the call-in and reminding members of the purpose of call-in, running through the expected process of the meeting and providing a reminder for those present of the options that exist for the reviewing overview and scrutiny committee in terms of any recommendations they might make to the decision-maker;
- Providing an opportunity for those requesting the call-in to address the meeting and set out their arguments in more detail. As we have already noted, it is usual for requestors to be able to participate in the meeting, but it is likely that they will not be allowed to vote;
- Providing an opportunity for the decision-maker to respond. The decision-maker will be a witness – it will be for the chair to ensure fairness of time to address the committee between the requestor(s) for review and the decision-maker(s), whose contributions will be of central importance in allowing the committee to review their decision;
- Providing an opportunity for officers and other witnesses to contribute (see above);
- Questions from the committee members on the arguments and information put to the committee, which will have to be carefully managed by the chair to ensure there is no undue partiality, time-wasting or ‘grandstanding’ in the putting of questions and that replies are succinct and to the point (applying time limits if needs be);
- Debate amongst members. The chair is likely to need to ensure that debate focuses on the call-in and addressing only the decision itself, rather than ranging across into wider areas of council policy. An awareness of broader issues is important to provide context, but call-in should not be used as providing an opportunity for a wider critique of the organisation's priorities and direction;
- Taking a decision – considered in detail below.

Even where set process or standard agenda and timings may not be present in call-in protocols in the constitution, all authorities should have in place a published procedure that sets out in detail how call-in meetings will be carried out. The chair of the overview and scrutiny committee reviewing the called-in decision should be supported to ensure that this is used consistently, and participants (especially external participants) supported so that they understand their role and contribution.

### (iii) Taking the decision

The chair will need to determine when the debate has reached a point that issues have been dealt with sufficiently to allow a resolution/decision to be made as to “what happens” with the call-in.

As with any decision, a scrutiny committee can pass a resolution on a matter by general consent or by a recorded vote. It is quite likely that votes will be necessary at a call-in meeting.

The Committee cannot substitute its own judgement for the original decision. The Committee may however make a decision across the following range:

- (1) To uphold the original decision and allow it to be implemented unimpeded;
- (2) To uphold the original decision and allow it to be implemented unimpeded, but to also make recommendations to the decision maker or others in respect of future actions and policy (including recommending a further or more in-depth review by a committee;
- (3) To recommend that the decision be reconsidered by the original decision-maker;
- (4) To recommend that the decision be reconsidered by the original decision-maker who made it, together with recommendations for steps to be taken by the decision-maker or preferred outcomes, which may or may not sit alongside further recommendations concerning policy or review; or
- (5) To arrange for the call-in review, as conducted here so far as it relates to the decision, to be exercised instead by a meeting of the full authority, in which respect it must be noted that
  - the meeting of the full authority has no further powers than the committee can exercise, or has exercised and
  - the statutory Guidance, to which the committee must have regard, requires that the committee should *only* refer matters to the full council where the committee considers that the decision under review is contrary to the policy framework or contrary to or not wholly in accordance with the budget.

All of the above should be accompanied by the committee’s reasons.



## 5. The Outcome

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### (a) Referral to full Council

A referral to a full authority meeting will be highly unusual for the reasons set out in the statutory guidance detailed above. In this circumstance, the original decision and the committee's papers (minutes) will be referred to a meeting of the full authority.

In having regard to the statutory guidance, the subject matter referred to full council for review should only ever concern itself with whether the decision-maker ever held the lawful authority to purport to make that decision or not. As such, it will always be accompanied by a briefing note and/or advice from the monitoring officer and, in the case of budgetary matters, from the s.151 officer. It may also be accompanied by external legal or governmental advice.

The full authority meeting may only hold a debate so far as it relates to the decision called-in for review. The resolution that is produced as a result of that full authority debate may at most, like the committee, only recommend in exercise of its powers under s9F(4) Local Government Act 2000 that the decision be reconsidered by the person who made it.

### (b) Referring back to the original decision-maker

The Act refers to the decision being referred back to the person who made it and the Guidance describes it thus:

*“The decision maker reconsiders the decision and decides whether or not to change it, explaining her or his reasons to the next meeting of overview and scrutiny or full council as appropriate. For example, the decision is re-examined at the next meeting of the executive with one or more representatives of the overview and scrutiny committee attending to put their case.”*

If a single cabinet member or an officer made the decision that is being referred back, then they make go on to consider the referral, any recommendations and reasons and then make the decision anew. It is quite likely, however, that following the focus on the decision brought about by the call-in and the reviewing overview and scrutiny committee's disagreement with the decision that it is referred by the single cabinet member or officer who made the decision to the leader and full cabinet. This is entirely acceptable; any decision maker may refuse to exercise their delegation on the basis that it is no longer appropriate to do so and request that the higher authority (and in this case there is no higher than the meeting of full cabinet) makes the decision.

In practice, therefore, the decision will usually be referred back to Cabinet, at a meeting convened to follow shortly after the overview and scrutiny meeting. Here, scrutiny's recommendations will be considered and Cabinet will decide whether to accept, or reject, those recommendations and may either endorse the original decision, in which case it is implemented unaltered from the original, may make a new decision with amended elements or application, or determine to do something different altogether.

Whatever is determined by the decision-maker on re-consideration, the subsequent decision should not be open to further call-in, regardless of the outcome.

Reasons do not strictly need to be given by the decision-maker on reconsideration but it would be highly unusual not to. The CfGS view is that not only does this help to ensure that call-in is taken seriously but failure to do so may make the decision open to legal challenge.

Whilst the statutory guidance suggests that the original decision-maker would report their decision to a subsequent meeting of an overview and scrutiny committee, or to full Council, many councils do not and explain that this is because of the level of publicity and political scrutiny created by the call-in and referral back means that such further attendance and steps are usually unnecessary.

### The Local Government Act 2000 as originally drafted

The original drafting of the principal provisions relating to call-in were set out in sections 21 and 38 of the Local Government Act 2000. This was amended by the Localism Act 2011 so that those provisions now apply to Wales only and new sections 9F, 9FA and 9Q were inserted for England.

Readers unfamiliar with the legislation should ensure that they are looking at the right parts of the Act. The changes since 2011 mean that the parts relating to England, and the parts relating to Wales, are substantively very similar (particularly in respect of call-in) but do contain critical differences.

### The current legislation

Call-in is established through a two-step legal process. The first is by use of the general power of review and scrutiny at section 9F(2), which states that:

*“Executive arrangements by a local authority must ensure that its overview and scrutiny committee has power (or its overview and scrutiny committees, and any joint overview and scrutiny committees, have power between them) —*

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive”*

The specific element come to be known as ‘call-in’ is then an aspect of that wider ability to review or scrutinise any decision made by the executive provided for by Section 9F(4), which states that:

*“The power of an overview and scrutiny committee under subsection (2)(a) to review or scrutinise a decision made but not implemented includes power—*

- (a) to recommend that the decision be reconsidered by the person who made it, or*
- (b) to arrange for its function under subsection (2)(a), so far as it relates to the decision, to be exercised by the authority”*

To supplement this, section 9FA adds additional powers, including that:

*“(8) An overview and scrutiny committee of a local authority or a sub-committee of such a committee*

- (a) may require members of the executive, and officers of the authority, to attend before it to answer questions ...”*

In exercising this function the local authority must also apply the following requirements concerning statutory guidance. This is set out at section 9Q of the Local Government Act 2000, which states that:

- “(1) A local authority must have regard to any guidance for the time being issued by the Secretary of State for the purposes of this Part.*
- (2) Guidance under this section may make different provision for different cases or descriptions of local authority*

and is repeated more specifically in section 9FA, which states that:

*“(11) In exercising, or deciding whether to exercise, any of its functions an overview and scrutiny committee of a local authority, or a sub-committee of such a committee, must have regard to any guidance for the time being issued by the Secretary of State.”*

# Statutory Guidance

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The 2019 guidance aside, other statutory guidance on call-in is now over two decades old, and difficult to find online. The relevant sections are therefore presented in the section below in their entirety.

## **‘Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities Guidance’**

This is the most recent statutory, issued for England in May 2019, refers to call-in at the following points.

At Section 2 (Culture), this guidance states:

*“11. Authorities can establish a strong organisational culture by:*

*“d) Managing disagreement*

*...*

*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.”*

and at Section 3 (Resourcing), it states:

*“17 ... When deciding on the level of resource to allocate to the scrutiny function, the factors an authority should consider include:*

*Effectively-resourced scrutiny can help policy formulation and so minimise the need for call-in of executive decisions”*

## **‘Local Government Act 2000: Guidance to English Authorities’**

The original ‘Local Government Act 2000: Guidance to English Authorities’, last updated 20th July 2001, is what established the considerations for local authorities’ call-in arrangements in stating the following [updated where required].

### **“CALL-IN OF DECISIONS**

*3.77 Sections 21(2) and (3) [(Wales) and sections 9F(2) and (4) (England)] of the Act mean that a local authority’s executive arrangements must ensure that overview and scrutiny committees have the specific powers, in respect of functions which are the responsibility of the executive, to recommend that a decision made but not yet implemented be reconsidered by the person who made the decision or to recommend that the full council consider whether that person should reconsider the decision.*

*3.78 Local authorities should make provision in their executive arrangements and standing orders, for procedures by which members of the local authority can request that a meeting of an overview and scrutiny committee be held to consider whether or not to use these powers in respect of a decision made but not yet implemented (a so called ‘call-in’ procedure). Such provisions may include a standard period of delay before decisions are implemented. Those provisions should ensure that there is an appropriate balance between effectively holding the executive to account, being able to question decisions before they are implemented and allowing effective and efficient decision making by the executive within the policy framework and budget agreed by the full council. The provisions should ensure that a decision maker could only be asked to reconsider a decision once. Day-to-day management and operational decisions taken by officers should not be subject to any call-in procedure.*

3.79 In addition, where the executive wishes to take an urgent key decision by seeking the agreement of the chair of a relevant overview and scrutiny committee (or where there is no chair of the overview and scrutiny committee with the chairman or vice chairman of the authority) that the matter is urgent the local authority's call-in procedure should include provisions which prevent such urgent decisions from being called-in or in any other way delayed.

3.80 Local authorities should also agree how called-in decisions are responded to. If an overview and scrutiny committee examines a decision and decides to recommend an alternative course of action, local authorities should set out how this should work. In particular local authorities should consider the following questions:

- how should the executive (or other body within the local authority as the case maybe) respond?
- what should the timescale for such a response be?

3.81 Figure [below] provides an illustrative example of one possible procedure for call in.

#### ILLUSTRATIVE EXAMPLE OF ONE POSSIBLE PROCEDURE FOR CALL IN

- The executive publishes decisions made either at an executive meeting or which has been taken by an individual member.
- The executive arrangements provide that decisions which can be subject to call-in will come into force within, say, 5 working days of the decision being published, unless an overview and scrutiny committee calls it in.
- Within that period any two or more members of an overview and scrutiny committee can request a meeting of the relevant overview and scrutiny committee to review the decision.
- All action to implement the decision is suspended for up to two weeks from the date of the decision. Within which time the overview and scrutiny committee may meet to decide whether to exercise the powers in section [9F(4)] of the Act.
- If the committee decides it disagrees with the decision, it may exercise the powers in [9F(4)] having regard to this statutory guidance.
- The decision maker reconsiders the decision and decides whether or not to change it, explaining her or his reasons to the next meeting of overview and scrutiny or full council as appropriate. For example, the decision is re-examined at the next meeting of the executive with one or more representatives of the overview and scrutiny committee attending to put their case.

3.82 Local authorities should ensure that the executive arrangements ensure that any call in procedure is not abused or used unduly to delay decisions or slowing down the process of decision making. In particular the executive will, from time to time, need to take decisions need to be implemented quickly. Local authorities will need to develop local conventions and protocols to prevent abuse of an overview and scrutiny committee's power to recommend that a decision made but not yet implemented be reconsidered. Local authorities should keep the operation of any call-in arrangements under review to ensure that they are not abused with an associated negative effect on the efficiency of executive decision making.

- 3.82A A call-in mechanism provides a process by which a decision made but not yet supplied implemented can be discussed at a meeting on an overview and scrutiny committee within a specified timescale during which implementation of the decision is suspended. A call-in mechanism cannot circumscribe the power in section [9FC] of the Act for an individual member of an overview and scrutiny committee to ensure that any matter of relevance to the remit of the committee be placed on the agenda and discussed at a meeting of the committee. However, the exercise of the power in section [9FC] does not have the effect of suspending implementation of a decision. Any call-in power for members to request a meeting and suspend implementation of a decision must therefore be in addition to the powers in section [9FC].
- 3.83 A safeguard which could be adopted in the executive arrangements could be to include provision requiring a certain number of committee (or local authority) members to call in a particular decision (although in the case of a church or parent governor representative they may be given an individual power to call in a decision).
- 3.85 Local authorities will need to consider, when designing such mechanisms, that under normal circumstances where a decision relates to a function which is the responsibility of the executive, ultimately only the executive can decide the matter.
- 3.86 To avoid the possibility of very many emergency council meetings the Secretary of State recommends that overview and scrutiny committees should only use the power in section [9F(4)(b)] to refer matters to the full council if they consider that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget. Where an overview and scrutiny committee refers a decision to the full council there should be a clear timescale set out in the local authority's constitution within which the debate should take place and to avoid decisions being unnecessarily delayed."

## Modular Constitutions for English Local Authorities: Overview and Scrutiny Procedure Rules – Excerpt

### 16. Call-in

Within executive forms of constitutions there are several mechanisms which can be used to resolve conflict between the executive and the Council/overview and scrutiny committees. So long as there is compliance with section 21(3) 9F(4) of the Local Government Act 2000, Councils have a choice about the chosen mechanism.

Call-in is also a feature of the alternative arrangements. However, because decisions will be made under delegation from the full Council, rather than a separately constituted executive, local authorities may wish to avoid use of call-in other than in exceptional circumstances. The text below provides a clause that Councils operating alternative arrangements may wish to adopt at the start of their procedure rules relating to call in.

Call-in should only be used in exceptional circumstances. These are where members of the appropriate overview and scrutiny committee have evidence which suggest that the policy committee did not take the decision in accordance with the principles set out in Article 13 (Decision Making).

Councils may wish to give examples here, or elaborate the conditions in the light of their local circumstances. For example, they could refer to inadequate consultation with stakeholders prior to a decision or an absence of evidence on which to take a decision.

Various call-in processes can be used. These examples provide that decisions are notified to the overview and scrutiny chairs and only become effective if there is no objection by an overview and scrutiny committee within x days.

- (a) When a decision is made by [the executive, an individual member of the executive or a committee of the executive, or a key decision is made by an officer with delegated authority from the executive, — in executive arrangements] [a policy committee — under alternative arrangements] or an area committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 days of being made. Chairs of all overview and scrutiny committees will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision. Where the chairman is of the same party as the (majority of) the executive, Councils may wish to introduce a requirement for copies to be sent to all members of the committee.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of [x — say 5] working days after the publication of the decision, unless an overview and scrutiny committee objects to it and calls it in.
- (c) During that period, the proper officer shall call-in a decision for scrutiny by the committee if so requested by the chair or any [three] members of the committee, and shall then notify the decision-taker of the call-in. He/she shall call a meeting of the committee on such date as he/she may determine, where possible after consultation with the chair of the committee, and in any case within 5 days of the decision to call-in.
- (d) If, having considered the decision, the overview and scrutiny committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further [x] working days, amending the decision or not, before adopting a final decision.
- (e) If following an objection to the decision, the overview and scrutiny committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the overview and scrutiny meeting, or the expiry of that further [x] working day period, whichever is the earlier.
- (f) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, [the following text applies only to executive forms of constitution — it has no locus to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case,] the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by [the executive as a whole or a committee of it — in executive arrangements] [a policy committee — under alternative arrangements], a meeting will be convened to reconsider within [x] working days of the Council request. [This text applies to executive forms of constitution — Where the decision was made by an individual, the individual will reconsider within [x] working days of the Council request.]
- (g) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

(h) Where a [n executive — in executive arrangements] decision has been taken by an area committee, then the right of call-in shall extend to any [x] members of another area committee if they are of the opinion that the decision made but not implemented will have an adverse effect on the area to which their committee relates. In such cases, those [x] members may request the proper officer to call-in the decision. He/she shall call a meeting of the relevant overview and scrutiny committee on such a date as he/she may determine, where possible after consultation with the chairman of the committee, and in any case within five days of the decision to call-in. All other provisions relating to call in shall apply as if the call in had been exercised by members of a relevant overview and scrutiny committee.

or

(i) Where a [n executive — in executive arrangements] decision has been taken by an area committee then the right of call-in shall extend to any other area committee which resolves to refer a decision which has been made but not implemented to a relevant overview and scrutiny committee for consideration in accordance with these provisions. An area committee may only request the proper officer to call-in the decision if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call in shall apply as if the call in had been exercised by members of a relevant overview and scrutiny committee.

These provisions reflect some possibilities by which disputes between area committees may be dealt with and reviewed. Choices on area committee call in/resolution of disputes should be reflected here.

#### EXCEPTIONS

- (j) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are (the paragraphs below are examples):
- i) that an overview and scrutiny committee may only call-in [y] decisions per [year] [three month period] [six month period];
  - ii) only decisions involving expenditure or reductions in service over a value of £[z] may be called in;
  - iii) five members of an overview and scrutiny committee [from at least two political parties] are needed for a decision to be called in;
  - iv) once a member has signed a request for call-in under paragraph 16 (call-in) above, he/she may not do so again until a period of [x months] has expired.

## CALL-IN AND URGENCY

The operation of the urgency provisions in relation to call-in procedures and the timescales in them are to be determined by Councils. In executive forms of constitution, the Council and the executive might agree a definition of urgency or the chairs of the overview and scrutiny committees might agree the definition. The arbiter need not be the chairman. It could be the chair of an overview and scrutiny committee. Report to Council is optional.

- (k) The call-in procedure set out above shall not apply where the decision being taken by the [executive — in executive arrangements] [policy committee — under alternative arrangements] is urgent. A decision will be urgent if any delay likely to be caused by the call in process would [for example — seriously prejudice the Council's or the public's interests]. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The chairman of the council (mayor — in leader and cabinet and alternative arrangements) must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the chairman (mayor — in leader and cabinet and alternative arrangements), the vice-chair's (deputy mayor's — in leader and cabinet and alternative arrangements) consent shall be required. In the absence of both, the head of paid service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (l) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.





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# Forward Plan of Key Decisions

Agenda Item No: 8

Date: 16 May 2023

OUT OF DARTMOUTH

## The Forward Plan

This document sets out known 'key decisions' that will be taken by the Cabinet or one of the Cabinet Panels (the Executive) over the coming months.

Forthcoming decisions are published online to meet the statutory 28 day rule for each meeting of the Executive. Where it has not been possible to meet the 28 day rule for publication of notice of a key decision or an intention to meet in private, the relevant notices will be published as required by legislation as soon as possible.

### What is a key decision?

A key decision is an Executive decision which is likely:

- to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates (in Wolverhampton, this is defined as expenditure or savings **in excess of £250,000**), and/or
- to be significant in terms of its effects on communities living or working in an area comprising **two or more wards** in the area of the local authority.

The report relating to a decision, together with any other documents being considered, will be available five clear days before the decision is to be taken (unless the documentation contains exempt information). Copies are available on the Council's website or can be requested from Democratic Services.

The forward plan also provides notice of when the Cabinet may decide to exclude the press and public during consideration of a particular matter due to the potential for disclosure of confidential or exempt information. The grounds upon which local authorities can exclude the press and public are specified by law, details of the exempt categories are available on request from Democratic Services.

Councillors or members of the public wishing to:

- make a representation about why a matter should be heard in public, or
- submit information to the decision-making body about an item in the forward plan, or
- request details of relevant documents, or
- seek advice about the Council's decision-making arrangements,

should contact the Democratic Services team:

Email: [democratic.services@wolverhampton.gov.uk](mailto:democratic.services@wolverhampton.gov.uk)

Telephone: 01902 550320

Address: Civic Centre, St Peter's Square, Wolverhampton WV1 1SH

## Forthcoming key decisions

Title of key decision:	Wards affected:	Decision to be taken by and date:	Public or private:	Lead Cabinet Member:	Employee to contact:
<b>Our Council</b>					
<b>24 May 2023 - Exempt Procurement Award of Contracts for Works, Goods and Services</b> Exempt Procurement Award of Contracts for Works, Goods and Services.	All Wards	Cabinet (Resources) Panel 24 May 2023	Fully Exempt	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503
<b>Reserves, Provisions and Balances 2022-2023</b> To report on the Council's resources currently held as earmarked reserves, provisions and general balances as at 31 March 2023, taking account of the outturn position for 2022-2023.	All Wards	Cabinet 14 Jun 2023	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	Alison Shannon Chief Accountant Tel: 01902 554561
<b>Performance and Budget Outturn 2022-2023</b> To provide the Council's outturn position for 2022-2023 compared with approved budgets and targets and performance update against the Relighting Our City priorities.	All Wards	Cabinet 14 Jun 2023	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	Alison Shannon Chief Accountant Tel: 01902 554561

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Title of key decision:	Wards affected:	Decision to be taken by and date:	Public or private:	Lead Cabinet Member:	Employee to contact:
<p><b>14 June 2023 - Public Procurement Award of Contracts for Works, Goods and Services</b> Public Procurement Award of Contracts for Works, Goods and Services.</p>	All Wards	Cabinet (Resources) Panel 14 Jun 2023	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503
<p><b>14 June 2023 - Exempt Procurement Award of Contracts for Works, Goods and Services</b> Exempt Procurement Award of Contracts for Works, Goods and Services.</p>	All Wards	Cabinet (Resources) Panel 14 Jun 2023	Fully Exempt	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	Alison Shannon Chief Accountant Tel: 01902 554561
<p><b>Treasury Management - Annual Report 2022-2023 and Activity Monitoring Quarter One 2023-2024</b> To approve the Treasury Management - Annual Report 2022-2023 and Activity Monitoring Quarter One 2023-2024.</p>	All Wards	Cabinet 12 Jul 2023	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	Alison Shannon Chief Accountant Tel: 01902 554451
<p><b>Capital Budget Outturn 2022-2023 including Quarter One Capital Budget Monitoring 2023-2024</b> To approve the capital budget outturn 2022-2023 including quarter one capital monitoring 2023-2024.</p>	All Wards	Cabinet 12 Jul 2023	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	Alison Shannon Chief Accountant Tel: 01902 554561

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Title of key decision:	Wards affected:	Decision to be taken by and date:	Public or private:	Lead Cabinet Member:	Employee to contact:
<p><b>12 July 2023 - Public Procurement Award of Contracts for Works, Goods and Services</b> Public Procurement Award of Contracts for Works, Goods and Services.</p>	All Wards	Cabinet (Resources) Panel 12 Jul 2023	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503
<p><b>LEP Gainshare monies for digital innovation purposes</b> To seek approval to use LEP Gainshare monies for digital innovation purposes.</p>	All Wards	Cabinet (Resources) Panel 12 Jul 2023	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	Heather Clark Head of External Funding and Digital Projects Tel: 01902 555614
<p><b>12 July 2023 - Exempt Procurement Award of Contracts for Works, Goods and Services</b> Exempt Procurement Award of Contracts for Works, Goods and Services.</p>	All Wards	Cabinet (Resources) Panel 12 Jul 2023	Fully Exempt	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503
<p><b>Draft Budget and Medium Term Financial Strategy 2024-2025 to 2026-2027</b> To provide an update to the Draft Budget and Medium Term Financial Strategy 2024-2025 to 2026-2027; and agree the next steps that will be taken in order to address the financial pressures faced by the Council over the medium term.</p>	All Wards	Cabinet 26 Jul 2023	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	Alison Shannon Chief Accountant Tel: 01902 554561

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Title of key decision:	Wards affected:	Decision to be taken by and date:	Public or private:	Lead Cabinet Member:	Employee to contact:
<p><b>Performance and Budget Monitoring 2023-2024</b> To provide an integrated finance and performance update against the Relighting Our City priorities.</p>	All Wards	Cabinet 26 Jul 2023	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	Alison Shannon Chief Accountant Tel: 01902 554561
<p><b>26 July 2023 - Public Procurement Award of Contracts for Works, Goods and Services</b> Public Procurement Award of Contracts for Works, Goods and Services.</p>	All Wards	Cabinet (Resources) Panel 26 Jul 2023	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503
<p><b>Council Tax Discretionary Discount Scheme</b> Review of the existing Council Tax Discretionary Scheme.</p>	All Wards	Cabinet (Resources) Panel 26 Jul 2023	Open	Councillor Obaida Ahmed, Cabinet Member for Resources and Digital City	Tracey Richards Head of Revenues and Benefits Tel: 01902 552493
<p><b>26 July 2023 - Exempt Procurement Award of Contracts for Works, Goods and Services</b> Exempt Procurement Award of Contracts for Works, Goods and Services.</p>	All Wards	Cabinet (Resources) Panel 26 Jul 2023	Fully Exempt	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503
<p><b>6 September 2023 - Public Procurement Award of Contracts for Works, Goods and Services</b> Public Procurement Award of Contracts for Works, Goods and Services.</p>	All Wards	Cabinet (Resources) Panel 6 Sep 2023	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503

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Title of key decision:	Wards affected:	Decision to be taken by and date:	Public or private:	Lead Cabinet Member:	Employee to contact:
<p><b>6 September 2023 - Exempt Procurement Award of Contracts for Works, Goods and Services</b> Exempt Procurement Award of Contracts for Works, Goods and Services.</p>	All Wards	Cabinet (Resources) Panel 6 Sep 2023	Fully Exempt	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503
<p><b>Draft Budget and Medium Term Financial Strategy 2024-2025 to 2026-2027</b> To provide an update to the Draft Budget and Medium Term Financial Strategy 2024-2025 to 2026-2027; and agree the next steps that will be taken in order to address the financial pressures faced by the Council over the medium term.</p>	All Wards	Cabinet 18 Oct 2023	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	Alison Shannon Chief Accountant Tel: 01902 554561
<p><b>18 October 2023 - Public Procurement Award of Contracts for Works, Goods and Services</b> Public Procurement Award of Contracts for Works, Goods and Services.</p>	All Wards	Cabinet (Resources) Panel 18 Oct 2023	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503
<p><b>18 October 2023 - Exempt Procurement Award of Contracts for Works, Goods and Services</b> Exempt Procurement Award of Contracts for Works, Goods and Services.</p>	All Wards	Cabinet (Resources) Panel 18 Oct 2023	Fully Exempt	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503

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Title of key decision:	Wards affected:	Decision to be taken by and date:	Public or private:	Lead Cabinet Member:	Employee to contact:
<b>Capital Programme 2023-2024 to 2027-2028 Quarter Two Review</b> To approve the capital programme 2023-2024 to 2027-2028 quarter two review.	All Wards	Cabinet 15 Nov 2023	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	Alison Shannon Chief Accountant Tel: 01902 554561
<b>Performance and Budget Monitoring 2023-2024</b> To provide an integrated finance and performance update against the Relighting Our City priorities.	All Wards	Cabinet 15 Nov 2023	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	Alison Shannon Chief Accountant Tel: 01902 554561
<b>15 November 2023 - Public Procurement Award of Contracts for Works, Goods and Services</b> Public Procurement Award of Contracts for Works, Goods and Services.	All Wards	Cabinet (Resources) Panel 15 Nov 2023	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503
<b>15 November 2023 - Exempt Procurement Award of Contracts for Works, Goods and Services</b> Exempt Procurement Award of Contracts for Works, Goods and Services.	All Wards	Cabinet (Resources) Panel 15 Nov 2023	Fully Exempt	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503
<b>13 December 2023 - Public Procurement Award of Contracts for Works, Goods and Services</b> Public Procurement Award of Contracts for Works, Goods and Services.	All Wards	Cabinet (Resources) Panel 13 Dec 2023	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503

Title of key decision:	Wards affected:	Decision to be taken by and date:	Public or private:	Lead Cabinet Member:	Employee to contact:
<b>13 December 2023 - Exempt Procurement Award of Contracts for Works, Goods and Services</b> Exempt Procurement Award of Contracts for Works, Goods and Services.	All Wards	Cabinet (Resources) Panel 13 Dec 2023	Fully Exempt	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503
<b>17 January 2023 - Public Procurement Award of Contracts for Works, Goods and Services</b> Public Procurement Award of Contracts for Works, Goods and Services.	All Wards	Cabinet (Resources) Panel 17 Jan 2024	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503
<b>17 January 2023 - Exempt Procurement Award of Contracts for Works, Goods and Services</b> Exempt Procurement Award of Contracts for Works, Goods and Services.	All Wards	Cabinet (Resources) Panel 17 Jan 2024	Fully Exempt	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503
<b>2024-2025 Budget and Medium Term Financial Strategy 2024-2025 to 2026-2027</b> To present a balanced budget for 2024-2025 aligned to the Council Plan priorities and an update on the Medium Term Financial Strategy 2024-2025 to 2026-2027.	All Wards	Cabinet 21 Feb 2024	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	Alison Shannon Chief Accountant Tel: 01902 554561

Title of key decision:	Wards affected:	Decision to be taken by and date:	Public or private:	Lead Cabinet Member:	Employee to contact:
<b>Performance and Budget Monitoring 2023-2024</b> To provide an integrated finance and performance update against the Relighting Our City priorities.	All Wards	Cabinet 21 Feb 2024	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	Alison Shannon Chief Accountant Tel: 01902 554561
<b>21 February 2024 - Public Procurement Award of Contracts for Works, Goods and Services</b> Public Procurement Award of Contracts for Works, Goods and Services.	All Wards	Cabinet (Resources) Panel 21 Feb 2024	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503
<b>21 February 2024 - Exempt Procurement Award of Contracts for Works, Goods and Services</b> Exempt Procurement Award of Contracts for Works, Goods and Services.	All Wards	Cabinet (Resources) Panel 21 Feb 2024	Fully Exempt	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503
<b>20 March 2024 - Public Procurement Award of Contracts for Works, Goods and Services</b> Public Procurement Award of Contracts for Works, Goods and Services.	All Wards	Cabinet (Resources) Panel 20 Mar 2024	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503
<b>20 March 2024 - Exempt Procurement Award of Contracts for Works, Goods and Services</b> Exempt Procurement Award of Contracts for Works, Goods and Services.	All Wards	Cabinet (Resources) Panel 20 Mar 2024	Fully Exempt	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503

Title of key decision:	Wards affected:	Decision to be taken by and date:	Public or private:	Lead Cabinet Member:	Employee to contact:
<b>24 April 2024 - Public Procurement Award of Contracts for Works, Goods and Services</b> Public Procurement Award of Contracts for Works, Goods and Services.	All Wards	Cabinet (Resources) Panel 24 Apr 2024	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503
<b>24 April 2024 - Exempt Procurement Award of Contracts for Works, Goods and Services</b> Exempt Procurement Award of Contracts for Works, Goods and Services.	All Wards	Cabinet (Resources) Panel 24 Apr 2024	Fully Exempt	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503
<b>22 May 2024 - Public Procurement Award of Contracts for Works, Goods and Services</b> Public Procurement Award of Contracts for Works, Goods and Services.	All Wards	Cabinet (Resources) Panel 22 May 2024	Open	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503
<b>22 May 2024 - Exempt Procurement Award of Contracts for Works, Goods and Services</b> Exempt Procurement Award of Contracts for Works, Goods and Services.	All Wards	Cabinet (Resources) Panel 22 May 2024	Fully Exempt	Councillor Obaida Ahmed Cabinet Member for Resources and Digital City	John Thompson Head of Procurement Tel: 01902 554503

Title of key decision:	Wards affected:	Decision to be taken by and date:	Public or private:	Lead Cabinet Member:	Employee to contact:
<b>Thriving economy in all parts of the city</b>					
<b>Wolverhampton Local Plan - Issues and Preferred Options Consultations</b> To approve the Wolverhampton Local Plan Issues and Preferred Options Report.	All Wards	Cabinet 18 Oct 2023	Open	Councillor Stephen Simkins Deputy Leader: Inclusive City Economy	Michele Ross Lead Planning Manager Tel: 01902 554038
<b>Strong families where children grow up well and achieve their full potential</b>					
<b>Children's Social Care Reform Project</b> Children's Social Care Reform Project.	All Wards	Cabinet 24 May 2023	Fully Exempt	Cabinet Member for Children and Young People	Alison Hinds Deputy Director of Children's Social Care Tel: 01902 553055
<b>Holiday Activity and Food (HAF) Grant Framework</b> To present the grant framework for local providers of Holiday Activity and Food schemes.	All Wards	Cabinet (Resources) Panel 24 May 2023	Open	Cabinet Member for Children and Young People	Alice Vickers Co-production and Youth Engagement Manager Tel: 01902 556703

<b>Title of key decision:</b>	<b>Wards affected:</b>	<b>Decision to be taken by and date:</b>	<b>Public or private:</b>	<b>Lead Cabinet Member:</b>	<b>Employee to contact:</b>
<b>Wolverhampton's Youth Justice Plan 2023-2024</b> To detail the key achievements within the Youth Offending Team during 2022-23 and the key priorities for 2023-2024.	All Wards	Cabinet 12 Jul 2023	Open	Cabinet Member for Children and Young People	Rachel King Head of Service Specialist Support Tel: 01902 555955
<b>Fulfilled lives for all with quality care for those that need it</b>					
<b>Principal Social Worker Annual Report 2022-2023</b> Annual report of the Principal Social Worker for Adults and Children's Services in 2022-2023, outlining key activity, priorities and impact.	All Wards	Cabinet 26 Jul 2023	Open	Cabinet Member for Children and Young People Cabinet Member for Adults	Jennifer Rogers Principal Social Worker Tel: 01902 553209
<b>Healthy, inclusive communities</b>					
<b>Public Space Protection Order 2023 - Dog Control</b> To consider the new Public Space Protection Order - Dog Control to commence 1 October 2023 for a period of three years.	All Wards	Cabinet 24 May 2023	Open	Councillor Steve Evans Cabinet Member for City Environment and Climate Change	Shaun Walker Section Leader Tel: 01902 554548
<b>Statutory Food Service Plan</b> Annual Statutory Food Service Plan outlining the work the service will complete for the year in relation to food hygiene and food standards (2023-2024)	All Wards	Cabinet (Resources) Panel 14 Jun 2023	Open	Councillor Steve Evans Cabinet Member for City Environment and Climate Change	Emily Fellows Team Leader – Environmental Health Tel: 01902 555190

[NOT PROTECTIVELY MARKED]

Title of key decision:	Wards affected:	Decision to be taken by and date:	Public or private:	Lead Cabinet Member:	Employee to contact:
<p><b>Bilston Asset Transformation Programme - Bilston Health &amp; Wellbeing Facility</b> Bilston Asset Transformation Programme - Bilston Health.</p>	<p>Bilston South; Bilston North</p>	<p>Cabinet (Resources) Panel 12 Jul 2023</p>	<p>Fully Exempt</p>	<p>Councillor Bhupinder Gakhal Cabinet Member for City Assets and Housing Councillor Jasbir Jaspal Cabinet Member for Health and Wellbeing</p>	<p>Ballal Raza Programme Manager</p>
<p><b>Good homes in well connected neighbourhoods</b></p>					
<p><b>Resident Influence and Insight Strategy for Council Owned Housing 2023 - 2026</b> Approval for a Council Owned Housing Resident Influence and Insight Strategy.</p>	<p>All Wards</p>	<p>Cabinet 14 Jun 2023</p>	<p>Open</p>	<p>Councillor Bhupinder Gakhal Cabinet Member for City Assets and Housing</p>	<p>Michelle Garbett Service Lead Housing Strategy Tel: 01902 552954</p>
<p><b>Wolverhampton Homes Management Agreement Review</b> To report on the summary and recommendations of the Independent Strategic Housing Review and to approve recommendations for the future management of Council Housing by Wolverhampton Homes.</p>	<p>All Wards</p>	<p>Cabinet (Resources) Panel 12 Jul 2023</p>	<p>Open</p>	<p>Councillor Bhupinder Gakhal Cabinet Member for City Assets and Housing</p>	<p>Andrew Bryant Service Lead – Landlord Services</p>

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[NOT PROTECTIVELY MARKED]

Title of key decision:	Wards affected:	Decision to be taken by and date:	Public or private:	Lead Cabinet Member:	Employee to contact:
<p><b>Hampton View, Heath Town - Surrender of lease</b> To approve the agreed Heads of Terms with Sanctuary Housing Association for the surrender of lease for Hampton View and to agree the future use of the high-rise block.</p>	Heath Town	Cabinet 15 Nov 2023	Fully Exempt	Councillor Bhupinder Gakhal Cabinet Member for City Assets and Housing	Karen Beasley Head of Housing Development Tel: 01902 554893
<p><b>Revision to the Private Sector Housing Assistance Policy</b> Revision to be made to the Private Sector Assistance Policy following review.</p>	All Wards	Cabinet (Resources) Panel 15 Nov 2023	Open	Councillor Bhupinder Gakhal Cabinet Member for City Assets and Housing	Michelle Garbett Service Lead Housing Strategy Tel: 01902 552954
<p><b>Housing Asset Management Strategy 2024 - 2028</b> To approve Asset Management Strategy 2024-2028 for council owned housing stock.</p>	All Wards	Cabinet (Resources) Panel 15 Nov 2023	Open	Councillor Bhupinder Gakhal Cabinet Member for City Assets and Housing	Karen Beasley Head of Housing Development Tel: 01902 554893
<p><b>More local people into good jobs and training</b></p>					
<p><b>City East Gateway A454 Phase 1 and 2 - Willenhall Road Progress Report</b> To present a progress report on the project including a review of implementation options. Potential authority to proceed to Full Business Case including land acquisition approval.</p>	East Park; Heath Town	Cabinet (Resources) Panel 6 Sep 2023	Fully Exempt	Councillor Steve Evans Cabinet Member for City Environment and Climate Change	Marianne Page Head of Strategic Transport Tel: 01902 551798

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[NOT PROTECTIVELY MARKED]

<b>Title of key decision:</b>	<b>Wards affected:</b>	<b>Decision to be taken by and date:</b>	<b>Public or private:</b>	<b>Lead Cabinet Member:</b>	<b>Employee to contact:</b>
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# Scrutiny Work Programme

2023 – 2024

Version Date – 5 June 2023

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Agenda Item No. 9



## The Scrutiny Work Programme – 2023 to 2024

Overview and Scrutiny Committees should be powerful committees that can contribute to the development of Council policies and hold the Cabinet to account for its decisions. Another key part of the overview and scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies.

Overview and scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants. Overview and Scrutiny Committees should not shy away from the need to challenge and question decisions and make constructive criticism.

The Scrutiny Board and Scrutiny Panels will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of the Constitution.

Each Scrutiny Panel will, subject to guidance from the Scrutiny Board, be responsible for setting and reviewing their priorities and work programme for the year.

Any member of the Scrutiny Board or a Scrutiny Panel shall be entitled to give notice to the Head of Paid Service that he/she wishes an item relevant to the functions of the Panel be included on the agenda for the next available meeting of the Board or Panel. On receipt of such a request the Head of Paid Service will ensure that it is included on the next available agenda.

In addition to their rights as Councillors, members of the Scrutiny Board and Scrutiny Panels have additional right to documents, and to notice of meetings, as set out in the Access to Information Procedure Rules in Part 4.

The Scrutiny Board and Panels may scrutinise, and review decisions made, or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Cabinet Member, the Head of Paid Service and/or any Designated Officer to attend before it to explain in relation to matters within their remit:

- a) any particular decision or series of decisions;
- b) the extent to which the actions taken implement Council policy; and/or
- c) their performance,
- d) and it is the duty of those persons to attend if so required.

[NOT PROTECTIVELY MARKED]

**Key Links:**

[Part 2 - Article 7 - Overview and Scrutiny Arrangements.pdf \(moderngov.co.uk\)](#)

[Part 2 - Article 4 - The Full Council.pdf \(moderngov.co.uk\)](#)

[Part 4c - Overview and Scrutiny Procedure Rules.pdf \(moderngov.co.uk\)](#) [Part 4d - Access To Information Procedure Rules.pdf \(moderngov.co.uk\)](#)

Should you need to contact the Scrutiny Team please email: [Scrutiny@wolverhampton.gov.uk](mailto:Scrutiny@wolverhampton.gov.uk)

**Scrutiny Board****Chair:** Councillor Phil Bateman MBE**Vice Chair:** Councillor Ellis Turrell**Scrutiny Support:** Martin Stevens DL

## Strategic oversight

- WMCA interface
- MTFS (overall oversight on Revenue/Capital/Assets)
- Overall performance (including Our City: Our Plan)
- Levelling Up
- Pre-Decision
- Call in
- Petitions
- Wolverhampton Pound
- Oversight of Select Committee work – reporting on outcomes

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Item	Description	SEB Lead	Officer Report/Author Lead	Date of Meeting	Publication Date	Status
City West Relaunch Scheme - Payments	The Extraordinary Scrutiny Board meeting held on 2 May 2023 was adjourned.	John Roseblade	Isobel Woods / Richard Lawrence	13 June 2023	5 June 2023	Programmed
Statutory Scrutiny Guidance and the Governance of Scrutiny Board	A report detailing the purpose of Scrutiny Board and the Statutory Scrutiny Guidance.	David Pattison	David Pattison	13 June 2023	5 June 2023	Programmed

[NOT PROTECTIVELY MARKED]

Regulator of Social Housing Consumer Standards – Compliance Update	Scrutiny Board requested this item come before them last time it was before them.	John Roseblade	Lynda Eyton	26 September 2023	18 September 2023	Programmed
Wolverhampton Homes contract management report	Officers in Housing requested the report come before Board.	John Roseblade	Andrew Bryant	26 September 2023	18 September 2023	Programmed
Budget Performance Monitoring Q4	Standard Budget / Performance Monitoring Report – Q4.	Claire Nye / Charlotte Johns	Alison Shannon / James Amphlett	26 September 2023	18 September 2023	Programmed
Communication Plan for the Council	Cllr Phil Bateman requested this at a previous meeting of the Board. Stressing the importance of communications.	Ian Fegan	Richard Wyatt	26 September 2023	18 September 2023	Programmed
Annual Scrutiny Report	Annual Scrutiny Report for May 2022 – May 2023.	David Pattison	Laura Noonan / Martin Stevens	26 September 2023	18 September 2023	Programmed
Budget Performance Monitoring Q1	Standard Budget / Performance Monitoring Report – Q3.	Claire Nye / Charlotte Johns	Alison Shannon / James Amphlett	14 November 2023	6 November 2023	Programmed
Wolverhampton Pound Update	Review of recommendations from Wolverhampton Pound Select Committee	Claire Nye	John Thompson / Parvinder Uppal	14 November 2023	6 November 2023	Programmed

[NOT PROTECTIVELY MARKED]

West Midlands Combined Authority	West Midlands Combined Authority falls in the remit of the Panel. Members requested further scrutiny in this area.	Charlotte Johns	Laura Collings	12 December 2023	4 December 2023	Programmed
Budget Medium Term Financial Strategy	Item is received annually each year.	Claire Nye	Alison Shannon	6 February 2024	29 January 2024	Programmed
Housing Revenue Account	Item is received annually each year.	Claire Nye	Alison Shannon	6 February 2024	29 January 2024	Programmed
Budget Performance Monitoring Q2	Standard Budget / Performance Monitoring Report – Q2.	Claire Nye / Charlotte Johns	James Amphlett / Alison Shannon	6 February 2024	29 January 2024	Programmed
Flooding Preparedness	The Chair of Board requested this item he previously chaired the Scrutiny Review Group on flooding.	David Pattison	Emma Smallman	5 March 2024	26 February 2024	Programmed
Emergency Planning (Date to be confirmed)	Pre-Decision Scrutiny	David Pattison	Emma Smallman	5 March 2024	26 February 2024	Programmed
Budget Performance Monitoring Q3	Standard Budget / Performance Monitoring Report – Q3.	Claire Nye / Charlotte Johns	James Amphlett / Alison Shannon	16 April 2024 (Pre-election period)	8 April 2024	Programmed

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**To Be Scheduled:-**

The Halls – At an appropriate time. (As per resolution when it was last discussed at Scrutiny Board)

Funding Streams available to the Council (Action from 7 March 2023 – Scrutiny Board)



## Economy and Growth Scrutiny Panel

**Chair:** Councillor Jacqueline Sweetman

**Vice Chair:** Councillor Udey Singh

**Scrutiny Support:** Lee Booker

### Remit, Function and Measures

- Help create good quality local jobs
- Working in partnership to support local people into work and better jobs
- Ensuring flexible skills systems which support local businesses to grow and residents to access good jobs
- Supporting local businesses to start up, scale up and thrive
- Attracting new investment which brings social and economic benefit to all
- Creating vibrant high streets with quality culture and leisure offers
- Growing the low carbon and circular economy
- Number of working age adults (16-64) claiming unemployment benefits
- Number of young adults (18-24) claiming unemployment benefits
- Level of 16 & 17 year old NEETS
- Number of jobs created / safeguarded in the city through the Investment Team
- % Local Authority spend on apprenticeship levy
- Number of apprentices and graduate placements within the council
- Empty properties in the city centre
- Business that survive one year in city
- Businesses that survive five years in the city
- % of premises in the city with full fibre coverage
- Number of rapid charging electric car points in the city
- Wolverhampton based businesses supported by the Council
- New investment opportunities generated by the Council

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Item	Description	SEB Lead	Officer Report/Author Lead	Date of Meeting	Publication Date	Status
Portfolio for City Inclusive Economy	Chair requested Portfolio Holder	Richard Lawrence	Richard Lawrence	21 June 2023	13 June 2023	Programmed

[NOT PROTECTIVELY MARKED]

about his Plans and Priorities for the Municipal Year	to give a statement about his plans for the year.					
Supporting the City's Businesses	Item requested at previous Panel meeting due to European Funding coming to an end in April.	Richard Lawrence	Isobel Woods	21 June 2023	13 June 2023	Programmed
Wolves at Work	Item requested at previous Panel meeting as part of on going Scrutiny on policy.	Emma Bennett	Isobel Woods	21 June 2023	13 June 2023	Programmed
Heath Town Baths Development Status	Panel requested a further item on this to check status of Development.	Richard Lawrence	Liam Davis	27 September 2023	19 September 2023	Programmed
National Brownfield Institute Report	Chair of Panel requested NBI to present their business case.	Richard Lawrence	Liam Davis	27 September 2023	19 September 2023	Programmed
Strategic Economic Plan		Charlotte Johns/Richard Lawrence	Charlotte Johns	27 September 2023	19 September 2023	Programmed
Budget and Medium Term Financial Strategy/Performance Review	Standard report received each year.	Claire Nye	Alison Shannon	29 November 2023	21 November 2023	Programmed

[NOT PROTECTIVELY MARKED]

Development of Hotels in the City and the Visitor Economy	Panel Members have requested status of bringing new Hotels into the City.	Richard Lawrence	Liam Davis	29 November 2023	21 November 2023	<b>Programmed</b>
Green Economy to include establishment of Green Partner Board	Panel were promised a report on the Green Partner Board in previous Municipal year	Richard Lawrence		29 November 2023	21 November 2023	<b>Programmed</b>
Provisional Q&A with Portfolio Holder/Deputy Leader	Question and Answer Session	Richard Lawrence		7 February 2024	30 January 2024	<b>Programmed</b>
TBC				7 February 2024	30 January 2024	

## Health Scrutiny Panel

**Chair:** Councillor Cllr Susan Roberts MBE

**Vice Chair:** Councillor Paul Singh

**Scrutiny Support:** Lee Booker

### Remit, Function and Measures

- Keep residents safe by containing and reducing the spread of Covid-19
- Close the gap on healthy life expectancy
- Help people live happier more active lives
- Protect vulnerable people at risk of harm and exploitation
- Inclusive, welcoming communities where people feel safe and look out for each other
- Alcohol specific mortality per 100,000
- % of physically inactive adults (Public Health Outcomes Framework)
- % of less active children (Active Lives Survey)
- Suicide rate (all persons) per 100,000
- % of 40-74 year olds attending offered health checks
- Number of individuals in treatment for alcohol (increase)
- Number of successful completions of alcohol treatment (no representation - increase)
- Number of alcohol detoxes (increase in referred, initiated, and completed)
- Narrowing the gap in % of adult residents in the city who have received their Covid-19 vaccination
- Number of 'free' activities for CYP in the city and uptake by- long term health conditions, disabilities, low socioeconomic groups, minority ethnic groups
- Number of referrals to physical activity opportunities by a health professional

Item	Description	Lead	Officer Report/Author Lead	Date of Meeting	Publication Date	Status
Hearing Aids	Presentation on Hearing Aid services across the City.	Paul Tulley	Sally Sandel	29 June 2023	21 June 2023	Programmed

	Access for patients and performance stats.					
Patient Participation Groups	Report/Presentation on the status of Patient Participation Groups in the city, including performance information and status of activity.	Paul Tulley	Sally Sandel	29 June 2023	21 June 2023	Programmed
Local Joint Health and Wellbeing Strategy	Officers requested this come before the Panel.	John Denley	Madelaine Freewood	29 June 2023	21 June 2023	Programmed
CQC Inspection Report on the Black Country Healthcare NHS Foundation Trust	Scrutiny on the recent downgrading of the Mental Health Trust	Marsha Foster		21 September 2023	13 September 2023	Programmed
Maternity Services RWT	Chief Executive of RWT requested this come before the Panel due to the national changes and reports on failures at other Trusts.	David Loughton		21 September 2023	13 September 2023	Programmed
RWT Quality Accounts	Standard report received each year.	David Loughton	Alison Dowling	21 September 2023	13 September 2023	Programmed
Healthwatch Annual Report	To receive the annual Healthwatch report. Standard item.	Stacey Lewis		21 September 2023	13 September 2023	Programmed
Budget and Medium Term Financial Strategy/Performance Review	Standard report received each year.	Claire Nye	Allison Shannon	14 December 2023	6 December 2023	Programmed

[NOT PROTECTIVELY MARKED]

Child to Adult Transition Services	Member of the Panel requested.	David Loughton		14 December 2023	6 December 2023	Programmed
Hospital at Home	RWT requested this item about Virtual Wards.	David Loughton		14 December 2023	6 December 2023	Programmed
Public Health Annual Report	Standard Annual Report the Panel receives each year.	John Denley		14 December 2023	6 December 2023	Programmed
Women's Health Services (Gynaecology)	Vice-Chair requested item. Joint item with RWT, Public Health and ICB with a focus on Gynaecology services at New Cross and Trust partners, the Manor and Cannock.	David Loughton		18 January 2024	10 January 2024	Programmed
West Midlands Ambulance Service Review Wolverhampton	Routine item required for review by the Panel	Pippa Wall/Mark Doherty		18 January 2024	10 January 2024	Programmed
Integrated Care System Review of Strategy, Performance and Priorities	Full review of the strategy and performance against priorities.	John Denley/Paul Tulley		18 January 2024	10 January 2024	Programmed
One Wolverhampton - Pharmacy	How Pharmacy services are changing within the new health system framework .	John Denley/Paul Tulley		18 January 2024	10 January 2024	Programmed
RWT Hospital Transport Service	Requested by the Panel when they	David Loughton		21 March 2024	13 March 2024	Programmed

[NOT PROTECTIVELY MARKED]

	considered Urology item.					
How the Care Quality Commission works in Wolverhampton	A full briefing and Q and A on how the Care Quality Commission works in Wolverhampton.	Regional Representative CQC	Regional Representative CQC	21 March 2024	13 March 2024	<b>Programmed</b>
Mental Health Item	Children's Mental Health Services	Marsha Foster		21 March 2024	13 March 2024	<b>Programmed</b>
Dentistry	Children's and Adults	John Denley	Bal Kaur	21 March 2024	13 March 2024	<b>Programmed</b>

**Additional Items to be Scheduled:-**

Healthwatch Primary Care Item

**Climate Change, Housing and Communities Scrutiny Panel**

**Chair:** Councillor Anwen Muston

**Vice Chair:** Councillor Wendy Dalton

**Scrutiny Support:** Earl Piggott-Smith

**Remit, Function and Measures**

- Work together to deliver more new homes
- Ensuring safe and healthy homes for all
- Ensuring access to a secure home
- Ensuring clean, green neighbourhoods and public space
- Well-connected businesses and residents
- Number of new builds completed in the city
- Net additional dwellings in the city
- % of dwelling stock that is vacant in the city
- Housing affordability ratio
- Total crime recorded per 1000 population
- % of planning application decisions made with 13 weeks or agreed timescales
- Number of homeless families moved into secure housing
- Energy efficiency of housing stock
- % fly tipping incidents resolved in 5 working days
- % of trees on public land serviced every two years
- % of carriageways in city assessed as high quality
- Number of people receiving specialist domestic abuse support in the community to prevent further harm
- Number of domestic abuse cases referred to Multi Agency Risk Assessment Conference (MARAC)
- WV Active membership numbers with breakdown by- long term health conditions, disabilities, low socioeconomic groups, minority ethnic groups
- % Domestic Abuse related incidents and crimes

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Item	Description	SEB Lead	Officer Report/Author Lead	Date of Meeting	Publication Date	Status
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[NOT PROTECTIVELY MARKED]

Climate Change	Report/Presentation reviewing councils progress in line with its zero carbon action plan and strategy.	John Roseblade	Perminder Balu	27 June 2023	19 June 2023	<b>Programmed</b>
Rough Sleepers Review	Presentation on the Councils homelessness team and up to date information on rough sleepers	John Denley	Anthony Walker	27 June 2023	19 June 2023	<b>Programmed</b>
Improvement of Housing Standards through Licensing	Report on Housing Standards in the private rented sector with particular focus on licensing.	John Roseblade	Chris Howell & Emma Caddick	27 June 2023	19 June 2023	<b>Programmed</b>
Safer Wolverhampton Partnership Strategic Priorities Consultation	Officer request.	John Denley	Hannah Pawley	27 June 2023	19 June 2023	<b>Programmed</b>
Wolverhampton Homes Fire & Asbestos Safety Standards	Member requested at a previous meeting.	Shaun Aldis	Simon Bamfield	28 September 2023	20 September 2023	<b>Programmed</b>
West Midlands Combined Authority Transport Strategy Status	Panel received a report last year and asked them to come back in the future.	John Roseblade		28 September 2023	20 September 2023	<b>Programmed</b>

[NOT PROTECTIVELY MARKED]

Community Safety Police Session 1	Panel requested more items on the police after a previous successful meeting with the Police.  Provisional idea – Love your Community meetings (Formally PACT) Meetings and combatting Drugs	John Denley	Lynsey Kelly	16 November 2023	8 November 2023	<b>Programmed</b>
Combatting Anti-Social Behaviour	Item ties in with the Police and Community collaboration theme and enables Panel full overview with a partnership approach	John Denley	Lynsey Kelly	16 November 2023	8 November 2023	<b>Programmed</b>
Fly Tipping	Member requested at Scrutiny Board.	John Roseblade	Steve Woodward	16 November 2023	8 November 2023	<b>Programmed</b>
Budget and Financial Strategy/ Performance Review	Standard item received each year.	Claire Nye	Alison Shannon	16 November 2023	8 November 2023	<b>Programmed</b>
Community Safety Police Session 2	To include Rehabilitation of offenders and	John Denley	Lynsey Kelly	22 February 2024	14 February 2024	<b>Programmed</b>

	services for reintegration into community post-sentence					
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## Adults Scrutiny Panel

**Chair:** Councillor Val Evans

**Vice Chair:** Councillor Christopher Haynes

**Scrutiny Support:** Earl Piggott-Smith

### Remit, Function and Measures

- Support the Health and Social Care system to respond to and recover from Covid-19
- Maximise independence for people with care and support needs
- Work as a system to make sure that people get the right support at the right time
- % of older people (aged 65 and older) who were still at home 91 days after discharge from hospital into reablement/rehabilitation services
- % of adults with learning disabilities in paid employment
- % of social care users supported to remain in their own homes
- % of adults who use services who say social care services help them to feel safe and secure
- % of adults in receipt of long-term services who are in control of their own lives

Item	Description	SEB Lead	Officer Report/Author Lead	Date of Meeting	Publication Date	Status
Principal Social Worker Annual Report	This is an annual report that is presented to the panel for discussion and comment on the work of the	Becky Wilkinson	Jennifer Rogers	4 July 2023	26 June 2023	Programmed

	Principal Social Worker in promoting and improving the quality of social work practice and outline the key priorities for 2023-2024.					
Wolverhampton Cares - Implementation of Social Care Commitment	A request from the panel to review progress.			4 July 2023	26 June 2023	<b>Programmed</b>
Transforming Adult Services Programme 2021-22 Annual report	The report outlines the vision for adult services and the key elements of the strategy.			17 October 2023	9 October 2023	<b>Programmed</b>
Our Commitment to All Age Carers 2022	Request from the panel to provide an update on progress.	Becky Wilkinson		17 October 2023	9 October 2023	<b>Programmed</b>
City of Wolverhampton Council's Local Account	This is an annual report that presented to the panel for discussion and comment.	Becky Wilkinson	Jennifer Rogers	5 December 2023	27 November 2023	<b>Programmed</b>
Performance, Budget Monitoring and MTFS	Request from Director to add this item to the agenda.	Becky Wilkinson	James Amphlet, James Barlow	5 December 2023	27 November 2023	<b>Programmed</b>

[NOT PROTECTIVELY MARKED]

Care and Support Provider Fee Review 2023/24	This is an annual report that presented to the panel for discussion and comment.	Becky Wilkinson		20 February 2024	12 February 2024	<b>Programmed</b>
Adult Social Care Winter Planning 2022-23	Request from Director to add this item to the agenda.	Becky Wilkinson		20 February 2024	12 February 2024	<b>Programmed</b>
Adults Social Work and Workforce Health Check 2022	This is an annual report that presented to the panel for discussion and comment.	Becky Wilkinson	Jennifer Rogers	19 March 2024	11 March 2024	<b>Programmed</b>

## **Children and Young People Scrutiny Panel**

**Chair:** Councillor Qaiser Azeem

**Vice Chair:** Councillor Stephanie Haynes

**Scrutiny Support:** Earl Piggott-Smith

### **Remit, Function and Measures**

- Ensuring that children have the best start in life and good early development
- Ensuring high quality education that closes the attainment gap
- Ensuring that children and young people grow up happy with good physical, social and mental health, and wellbeing
- Ensuring that every young person in the city is equipped for adulthood with life skills and ready for work
- Ensuring that families are strengthened where children are vulnerable or at risk
- % of Early Years and Childcare settings rated Good or Outstanding
- % of take up of 2-year-olds benefitting from early education
- % of schools in the city that are rated Good or Outstanding
- Average Attainment 8 score per pupil
- % gap in Attainment 8 score gap between advantaged and disadvantaged children
- % of 16 and 17 year-olds with SEND in education, employment, or training
- % of care leavers in education, employment, or training
- First time entrants into the Youth Justice System per 10,000 population
- Rate of children open to social care per 10,000 population under 18
- % of repeat referrals into Childrens Social Care with 12 months
- % of children and young people in care who have had 3 or more placements in the year
- % of EHC plans issued within 20 weeks

[NOT PROTECTIVELY MARKED]

Item	Description	SEB Lead	Officer Report/Author Lead	Date of Meeting	Publication Date	Status
Principal Social Worker Annual Report 2022 - 2023	This is an annual report that is presented to the panel for comment.	Emma Bennett	Jennifer Rogers	5 July 2023	27 June 2023	Programmed
Wolverhampton Children and Young People's Self-Evaluation 2023-24	This is an annual report that is presented to the panel for comment.	Emma Bennett	Alison Hinds	5 July 2023	27 June 2023	Programmed
SEND WSOA - DFE/NHS monitoring meeting - update	This will be a verbal update on the findings from the DFE/NHS monitoring visit on 26 June 2023	Emma Bennett	Brenda Wile	5 July 2023	27 June 2023	Programmed
Childcare Sufficiency Assessment	This is an annual report that is presented to the panel for information and comment.	Emma Bennett	Phil Leviers	4 October 2023	26 September 2023	Programmed
Cross Party Scrutiny Review Group - Written Statement of Action	The members of the working group to present an update following Ofsted visit to review	Emma Bennett	Brenda Wile	4 October 2023	26 September 2023	Programmed

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	progress against actions.					
Children's Residential Provision Business Case	To update panel on outcome of proposal.	Emma Bennett	Alison Hinds	4 October 2023	26 September 2023	Programmed
School Exclusion and Suspension	The panel requested on update on plans to reduce the number of school exclusions and suspensions.	Emma Bennett	Brenda Wile	22 November 2023	14 November 2023	Programmed
SEND and Inclusion Strategy	At the request of the SEB lead	Emma Bennett	tbc	22 November 2023	14 November 2023	Programmed
Youth and holiday offer in the City	Panel requested details of youth holiday offer and progress since earlier report.	Emma Bennett	Andrew Wolverson	22 November 2023	14 November 2023	Programmed
Family Hubs and Start for Life Offer Programme	The panel requested an update on plans to establish the programme and to review progress.	Emma Bennett	Alison Hinds	22 November 2023	14 November 2023	Programmed
School appeals update	The panel requested an update on changes made to support the process.	Emma Bennett	Laura Gittos/Bill Hague	22 November 2023	14 November 2023	Programmed



[NOT PROTECTIVELY MARKED]

Virtual School Head Annual Report	This is an annual report that presented to the panel for discussion and comment on the progress of children and young people in care and previously in care, for the academic year.	Emma Bennett	Darren Martindale	31 January 2024	23 January 2024	<b>Programmed</b>
Education Excellence: Update and monitoring	The panel requested an update on progress following the presentation of a previous report draft in January 2023.	Emma Bennett	Phil Leviers	31 January 2024	23 January 2023	<b>Programmed</b>
Social Work and Workforce Health Check	This is an annual report that is presented to the panel for comment specifically on the survey findings from social workers and other workers in children's service.	Emma Bennett	Jennifer Rogers	13 March 2024	5 March 2024	<b>Programmed</b>

## April 2023 - Cabinet Forward Plan

Wolverhampton's Youth Justice Plan 2023-2024

Wolverhampton Holiday Activities and Food Programme Annual Report 2022/2023

### Resources and Equality Scrutiny Panel

**Chair:** Councillor John Reynolds

**Vice Chair:** Councillor Sohail Khan

**Scrutiny Support:** Lee Booker

### Remit, Function and Measures

- Measuring Success
- Our City Our Plan – Our Council Programme
- Our Assets
- Our Data
- Our Digital
- Our Money
- Our People
- Our City: Our Plan – PRIDE values
- Wolverhampton Pound
- Gender pay gap of council employees
- Ethnicity pay gap of council employees
- Customer Service call wait times
- Sickness absence rates
- Employee turnover rate
- Spend with local businesses
- Overall, how well informed do you think your council keeps residents about the services and benefits it provides? (LGA Resident Satisfaction Survey)

Item	Description	SEB Lead	Officer Report/Author Lead	Date of Meeting	Publication Date	Status
EDI strategy - Equalities Impact Assessments	Standing item How the Council evaluates Equalities implications on projects and policy. With Live examples from the regen Regen Team	David Pattison	Jin Takhar	08 June 2023	31 May 2023	Programmed
Land and Property Disposal Policy	Presentation on the handling of Asset Disposals	Claire Nye	Julia Nock	08 June 2023	31 May 2023	Programmed
Treasury Management Activity Monitoring Quarter Three 2022-2023	A quarterly report	Claire Nye	Allison Shannon	08 June 2023	31 May 2023	Programmed
Yoo Recruit Review	Panel request for further information following meeting in March 2023.	David Pattison	Michelle Rowe	12 October 2023	4 October 2023	Programmed
EDI strategy Progress against Objectives	Standing item Objective 4 from the Forward Plan	David Pattison	Jin Takhar	12 October 2023	4 October 2023	Programmed
Treasury Management	pre-decision scrutiny – this is an annual report.	Claire Nye	Alison Shannon	12 October 2023	4 October 2023	Programmed

[NOT PROTECTIVELY MARKED]

Reserves Working Group	This is a summary of the findings and any recommendations from the working group.	Claire Nye	Alison Shannon	12 October 2023	4 October 2023	Programmed
LGA Resident Satisfaction Polling	The panel requested a report on the findings.	Charlotte Johns	Lamour Gayle	7 December 2023	29 November 2023	Programmed
EDI strategy Progress against Objectives	Standing item Progress to date against the Race at Work Charter standards.	David Pattison	Jin Takhar	7 December 2023	29 November 2023	Programmed
Performance, Budget Monitoring and MTFS	Request from Director to add this item to the agenda – the report to include Our Council and Performance/Budget information.	Claire Nye	Laura Phillips/ James Amphlett/ Alison Shannon	7 December 2023	29 November 2023	Programmed
EDI strategy Progress against Objectives	Standing item Progress to date against the Race at Work Charter standards.	David Pattison	Jin Takhar	1 February 2024	24 January 2024	Programmed
Digital Wolves Strategy Update	This is an update to the report presented in February 2023 aimed at maximising the benefit of digital	Charlotte Johns	Heather Clark	1 February 2024	24 January 2024	Programmed

	to residents and businesses in the city.					
Asset Disposal Plan (Second part)	Extended briefing as requested by the Chair to discuss Asset Disposal Strategy	Claire Nye	Julia Nock	1 February 2024	24 February 2024	Programmed
Customer Service Strategy	Request from panel on update on changes to the strategy following a presentation in October 2022.	Charlotte Johns	Lamour Gayle	1 February 2024	1 February 2024	Programmed
EDI strategy Progress against Objectives	Standing item Progress to date against the Race at Work Charter standards.	David Pattison	Jin Takhar	12 March 2024	4 March 2024	Programmed
Treasury Management Strategy 2024-2025 report	pre-decision scrutiny – this is an annual report.	Claire Nye	Allison Shannon	12 March 2024	4 March 2024	Programmed
Contract Management and Procurement Report	this reports updates previous report that was presented to the panel in October 2022.	Claire Nye	John Thompson	12 March 2024	4 March 2023	Programmed
Ethnicity Pay Gap report 2021 update report	Standing item Progress to date against the Race at	David Pattison	Jin Takhar	12 March 2024	4 March 2024	Programmed

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	Work Charter standards.					
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