



Northumberland

County Council

CABINET: 8 OCTOBER 2019

Review of the Overview and Scrutiny Function

Report of Kelly Angus: Deputy Chief Executive and Executive Director of HR/OD

Cabinet Member: Richard Dodd, Business Chair

Purpose of report

To consider the findings of the **[House of Commons - Communities and Local Government Committee: Effectiveness of Local Authority Overview and Scrutiny Committees Report December 2017]**

and the subsequent

[The Ministry of Housing, Communities and Local Government “Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities” May 2019]

and be satisfied that Northumberland’s Scrutiny Service is fit for purpose.

Recommendation

Cabinet is requested to review the Guidance and consider the comments from Chairmen’s Group on the issues raised in the report.

Link to Corporate Plan

This report is relevant to the ‘Residents First’, ‘Excellence and Quality’ ‘Respect’ and ‘Keeping our Communities Safe and Well’ priorities included in the NCC Corporate Plan 2018-2021 (Revised)

Key issues

- 1.1 In December 2017, the House of Commons published their report regarding the effectiveness of local Authority Overview and Scrutiny Committees, having considered written and verbal evidence from Government ministers, local authorities, overview and scrutiny chairs, political parties and other interested parties. : Link below:

[House of Commons - Effectiveness of LA Overview and Scrutiny Committees](#)

- 1.2 In May 2019, and in response, the Ministry of Housing, Communities and Local Government published the “Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities”. Link below:

[Statutory Guidance on Overview and Scrutiny 2019](#)

- 1.3 The guidance seeks to clarify the role and benefits of scrutiny to local authorities; taking into account the significant changes to scrutiny since the previous guidance was published in 2006.
- 1.3 Although this is statutory guidance, and should be followed unless there is a good reason not to, it also recognises that local authorities are best placed to decide how scrutiny should work within their own political structures. As such, the guidance is focused towards highlighting best practice, with it left to individual councils to determine its implementation.
- 1.4 Although parts of the guidance are focused on the wider culture of an organisation towards scrutiny and as such, are beyond the remit of the Scrutiny Committees to directly determine, other sections offer practical advice. The areas within the remit of Chairmen’s Group/scrutiny are highlighted in the report.
- 1.5 This report was considered by the Chairmen’s Group at its meeting on 17 September 2019. The Group was supportive of many of the issues raised in the Guidance and its comments are summarised at the end of each section.

2. Themes of the Guidance

- 2.1 The guidance highlights a number of specific areas that directly contribute towards the effectiveness of scrutiny. These range from practical advice on issues such as the importance of work programming to the less tangible and harder to influence such as organisational culture. The six themes of the guidance as set out in the guidance are:

- Culture;
- Resourcing;
- Selecting Committee Members;
- Power to access information;
- Planning work;
- Evidence sessions.

The context of the six themes is summarised below:

Culture

- 2.2 The guidance acknowledges that organisational culture within local authorities is one of the key determinants of the success or failure of scrutiny with emphasis placed on the importance of scrutiny being led by and owned by its Members.

- 2.3 We are also reminded within the guidance that the performance of scrutiny and its effectiveness can be considered by external bodies and regulators and published in public reports (for example Ofsted Inspections).
- 2.4. The guidance lists a range of suggested mechanisms that will help to ensure that the organisational culture is supportive of the role of scrutiny. These are:
- (a) **Recognising Scrutiny's legal and democratic legitimacy.** The need for all members and officers within the Council to recognise the importance and legitimacy of scrutiny, which has specific powers set out in law.
 - (b) **Identifying a clear role and focus.** It is recommended that there is a need for scrutiny to have a clearly defined role within the organisation and one that is focussed on providing value. There needs to be a clear division of responsibilities between the scrutiny and audit functions. Northumberland recognises and practices this division of responsibilities.
 - (c) **Ensuring early and regular engagement between the Cabinet and Scrutiny.** It is recommended that there should be early and regular discussions between Scrutiny and the Cabinet, particularly in regard to the Cabinet's future work programming. Portfolio holders, together with service officers could identify particular topics several months in advance of when a decision is required by Cabinet and request that the relevant OSC examines the key issues in detail to assist in the formulation of the final recommendations. This would reduce the culture of assuming that all reports are subject to pre-scrutiny unless requested by the relevant OSC Chair.
 - (d) **Managing Disagreement.** The guidance recommends that a protocol is developed to manage any instances when the Cabinet disagrees with Scrutiny recommendations. In Northumberland, the discussions and recommendations arising from scrutiny to Cabinet (whether supported or not) are detailed in the Cabinet minutes which then are submitted to Council. Scrutiny receive an update to their next meeting. Recommendations are monitored on a rolling programme which is submitted to each Scrutiny meeting.
 - (e) **Providing the Necessary Support.** The guidance recognises that determining the level of support available for Scrutiny is a matter for individual authorities, but it does highlight that appropriate support should be given to allow Scrutiny Members to access information required to fulfil their duties. In Northumberland, the scrutiny support has reduced from a manager and three scrutiny officers to one scrutiny co-ordinator with scrutiny support provided by two democratic services officers, all providing dual scrutiny/committee roles. It has been agreed that a further scrutiny officer be appointed to enable the roles to be separated (following a period of training) and allow more dedicated research and themed work to be carried out. This will also provide some succession planning.

- (f) **Ensuring Impartial Advice from Officers.** The guidance reconfirms the need for officers to be able to give impartial advice to Scrutiny Members, highlighting in particular the importance of the 'statutory officer' roles, namely the Head of Paid Service, the Section 151 Officer and the Monitoring Officer. This poses no problem in Northumberland.
- (g) **Communicating Scrutiny's role and purpose to the wider authority.** The guidance highlights that a lack of awareness of the role of scrutiny across the Council can act as an impediment to its success. As such it is crucial to communicate the importance of scrutiny and the role it plays in decision making across the Council. This will ensure that officers are aware of the role of scrutiny and the importance of providing support to the scrutiny function.
- (h) **Maintaining the interest of full Council in the work of Scrutiny.** The guidance notes that it is important that other non-scrutiny Members are kept informed of the work of scrutiny. The suggested mechanism for this is through submitting reports and recommendations to full Council rather than solely to the Cabinet. This is a political decision. In Northumberland, Council receive the minutes of scrutiny, together with the Cabinet minutes detailing scrutiny's view on an issue. Members have the opportunity to question the respective Chairs on issues raised in the minutes. Council also receives an Annual Report of the scrutiny function. Members are aware they can contact the respective Chairs or the Statutory Scrutiny Officer with any potential issues for consideration by an OSC - subject to the agreement of Chairmen's Group.
- (i) **Communicating scrutiny's role to the public.** The guidance suggests engaging with the Council's Communications team to publicise and raise awareness of the work of scrutiny in the local community. Also, the issues raised at other committees, particularly Local Area Councils could help inform the Scrutiny Work Plans and ensure issues raised by the public or other bodies are scrutinised and recommendations made to Cabinet. This could help inform the State of the Area debate/Corporate Plan etc. This is an issue that the Communities and Place OSC is seeking to address through a review of the Local Area Councils.
- (j) **Ensuring scrutiny members are supported in having an independent mindset.** The guidance acknowledges that the difficulty for Members potentially having to scrutinise colleagues, but emphasises that in order for scrutiny to work effectively it is fundamental that Members have an independent mindset. It highlights the need for Scrutiny Chairs to work proactively to identify any contentious issues and plan how to manage them. In Northumberland, the Chairman's Group discuss issues and allocate to scrutiny where appropriate.

2.5 Many parts of the above are outside of the remit of the Scrutiny and Overview Committee to directly influence. As such, the Chairman's Group should consider highlighting the above to the Cabinet, asking that consideration be given to how these can be implemented.

Chairmen's Group comments:

- **support the need for regular briefings between OSC Chairs and portfolio holders/senior officers to identify issues where the relevant OSC can make a meaningful contribution to final outcomes, including Cabinet reports;**
- **content with the current reporting arrangements whereby OSC minutes are presented to Council. No need to adopt a separate protocol for resolving disputes between Cabinet and OSCs;**
- **note that OSCs can invite external bodies to respond to concerns raised by members or public. Would like to formalise scrutiny arrangements for Council "owned" bodies such as Active Northumberland and Advance Northumberland, and**
- **remind OSC Chairs that they can co-opt expertise onto the Committee, particularly when dealing with specific complex issues.**

Resourcing

- 2.6 As mentioned above, the guidance does not seek to prescribe a specific level of officer support allocated to scrutiny, but it does highlight that an appropriate level of support is required to ensure that scrutiny can function effectively.
- 2.7 In addition to specific officer support, the guidance highlights that any support should also include the way the wider Council engages with scrutiny.
- 2.8 This section of the guidance is also beyond the remit of the Scrutiny and Overview Committee to directly influence and as such could also be highlighted to the Cabinet for further consideration.

Chairmen's Group comments:

- **welcomes the proposed appointment of a Scrutiny Officer to support the OSCs to formulate their own work programmes and undertake research and provide briefings as appropriate.**

Selecting Committee Members

- 2.9 The guidance emphasises the need to consider experience, expertise, interests, ability to act impartially, ability to work as part of a group and capacity to serve when selecting Members to serve on scrutiny committees.
- 2.10 A perceived level of support for or against a particular political party should not be a factor taken into account when selecting Members for scrutiny.
- 2.11 The selection of Scrutiny Members at the Council is by the respective political groups and as such beyond the direct control of the Overview and Scrutiny Committee and could also be highlighted to the Cabinet for further consideration

- 2.12 The guidance recognises the importance the role of Chair plays in the success of scrutiny, with this role being responsible for establishing its profile, influence and ways of working. A suggestion is made for using a secret ballot as a method for selecting scrutiny chairs, but it is acknowledged that it is up to local authorities to choose the best method for their circumstances.
- 2.13 It is recommended that ongoing training is provided for Scrutiny Members to allow them to fulfil their roles successfully. In particular the need for Members to be aware of their legal powers and understand how to prepare for and ask relevant questions at Scrutiny meetings are essential.
- 2.14 In the past, a training session has been organised for Scrutiny Members giving an introduction to scrutiny and setting out best practice. Briefing sessions have also been arranged for specific Sub-Committees as required. A number of Members have also attended external training courses with the Centre for Public Scrutiny and the Local Government Association. Further training can be arranged as part of the Member Training programme for the forthcoming year.
- 2.15 The guidance also recognises the value that can be added by outside expertise through either co-option of members onto a committee or the use of technical advisors for specific subject. Northumberland does have a number of co-optees appointed by scrutiny, including a representative from Healthwatch Northumberland on the Health & Wellbeing Scrutiny Committee and a number of education representatives on the Family and Children's Services Scrutiny Committee.

Chairmen's Group comments:

- **the Group do not propose any changes to the selection of OSC members, and**
- **welcome the opportunity to receive external scrutiny training.**

Power to Access Information

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

Chairmen's Group comments:

- **the Group did not feel it had been denied access to information when requested, therefore did not seek any changes to current practice.**

Planning Work

- 2.18 The guidance stresses the importance of work programming in the success of scrutiny, with a focus needed on items that can make a tangible difference. In planning its work programme, it is recommended that scrutiny should have in the main a long term plan, but with enough flexibility to ensure that urgent, short term issues can be considered as needed. In Northumberland, the work programme of the Committees is coordinated through regular meetings of the Chairmen's Group who ensure that items are prioritised and a balanced approach is taken.
- 2.19 The guidance recommends using a variety of sources to inform the work programme including the public, partner organisations, the Cabinet and senior officers. In consulting with the public it does highlight that a formal consultation on scrutiny may be less successful than individual Members having conversations with groups and individuals in their local communities. Again, the Local Area Councils could be a useful source in informing the work programmes ensuring that the OSCs focus on issues directly affecting residents.
- 2.20 In Northumberland, a variety of sources are consulted when preparing the work programme at the start of the year, including partner organisations such as those in the health field. Meetings are arranged for the Scrutiny Chairs with the respective senior managers responsible for those areas within the remit of each Committee to inform work planning. Looking forward the Committee may wish to consider who else should be consulted and how this could be accomplished.
- 2.21 The guidance also recommends the use of shortlisting to decide which topics to include in the work programme to ensure that the items chosen are ones in which scrutiny can add value.
- 2.22 The guidance sets out a number of different ways topics can be scrutinised, including having a single item on an agenda, dedicating a whole meeting to one item, a short task and finish group, a longer term task and finish group or a standing panel. The guidance sets out when it might be most appropriate to use each of the above.
- 2.23 In the past year many of the topics have been pre-scrutiny of Cabinet Reports which have dominated the agenda and few themed groups carrying out specific pieces of work. Extra resources may allow more task and finish work to be undertaken and the scrutiny of Cabinet reports carried out when a need is identified, rather than as a matter of course. The Committees/Chairmen's Group may wish to give consideration to the different scrutiny mechanisms when planning their work programme going forward.

Chairmen's Group comments:

- **as mentioned above, the Group supports greater collaboration with Cabinet members to formulate the OSCs own work programmes and to contribute at an earlier stage to Cabinet reports. Members have**

often complained that pre-scrutiny reports have been polished to such an extent that it leaves very little for the OSCs to meaningfully add;

- **support the establishment of task and finish groups to examine and make recommendations on issues that they wish to prioritise, and**
- **Chairmen's Group should meet bi-monthly (currently quarterly) to monitor and prioritise workloads.**

Evidence Sessions

- 2.24 The guidance highlights that evidence sessions are a key way for scrutiny committees to inform their work and emphasises the need for effective planning. In particular it is recommended that consideration is given to setting overall objectives for each session and the types of questions that need to be asked to achieve these objectives. In Northumberland, the themed work is scoped out using an agreed template to help focus the work.
- 2.25 Prior to each meeting of scrutiny at Northumberland, a pre-meeting is held with the Chair and Vice-Chair and relevant officers to brief them on the issues to be discussed. Given that the guidance emphasises the importance of effective planning, the Chairmen's Group may wish to consider whether the current system of pre-meetings allows this to be accomplished or whether other mechanisms should be considered.
- 2.26 In developing recommendations from the evidence sessions the guidance advocates the need for them to be evidence based and SMART (specific, measurable, achievable, relevant and timed). The guidance also suggests that a maximum of six to eight recommendations per topic should be sufficient to ensure that a focussed response is received.
- 2.27 At the conclusion of themed pieces of work in Northumberland, a 'wash up' session is held to finalise the recommendations to be made for each item. Chairmen's Group may wish to consider ensuring this work is 'tightened up' to ensure that all recommendations are concise and focussed upon deliverable outcomes. Recommendations are also followed up with Cabinet Members to ensure that when accepted, scrutiny is kept updated on their implementation.

Chairmen's Group comments:

- **welcome the additional officer support to ensure the OSC Chairs and members are better briefed on issues that are to be presented to them.**

3. Next Steps

- 3.1. Chairmen's Group noted that there were areas within the guidance, such as work programming and evidence sessions that relate specifically to processes within their control and have commented on those above. However there are other areas that are outside their remit and require the consideration of Cabinet. As such the

Cabinet is asked to give consideration to its current processes and whether any changes or recommendations are required as a result of the guidance, including the comments raised by Chairmen's Group.

Implications

Policy	There are no policy changes arising from this report.
Finance and value for money	The costs of democracy are included within the Council's budget. However, additional resources may be required as a result of this review.
Legal	n/a
Procurement	n/a
Human Resources	Additional resources may be required as a result of this review . Extra resource will aid succession planning.
Property	n/a
Equalities (Impact Assessment attached) Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>	n/a
Risk Assessment	n/a
Crime & Disorder	n/a
Customer Consideration	Scrutiny committees should be constructive 'critical friends' and provide a mechanism for considering and voicing the concerns of the public around Council decisions as well as holding decision makers to account.
Carbon reduction	n/a
Health and Wellbeing	n/a
Wards	All

Background Papers:

[House of Commons - Effectiveness of LA Overview and Scrutiny Committees](#)

[Statutory Guidance on Overview and Scrutiny 2019](#)

Report Sign Off

	Full name of officer
Monitoring Officer/Legal	Liam Henry
Service Director Finance & Interim S151 Officer	Alison Elsdon
Relevant Executive Director	Kelly Angus
Chief Executive	Daljit Lally
Portfolio Holder(s)	Richard Dodd

Author

Jackie Roll, Democratic Services Manager Jackie.Roll@northumberland.gov.uk
01670 622602