

Name of meeting: Overview and Scrutiny Management Committee

Date: 26 February 2018

Title of report: The findings of Communities and Local Government Committee Inquiry into Overview and Scrutiny in Local Government

Purpose of report:

To set out the findings of the 2017 Communities and Local Government Select Committee into Overview and Scrutiny in local government, for consideration by the Overview and Scrutiny Management Committee. At the time of writing, the formal response of the Government is still awaited.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	not applicable
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	No
The Decision - Is it eligible for call in by Scrutiny?	not applicable
Date signed off by <u>Strategic Director</u> & name	Give name and date for Cabinet reports
Is it also signed off by the Service Director for Finance IT and Transactional Services?	No
Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	Give name and date for Cabinet reports
Cabinet member portfolio	Corporate

Electoral wards affected: not applicable

Ward councillors consulted: not applicable

Public or private: Public

1. Summary

In 2017 the Communities and Local Government Select Committee carried out an inquiry into Overview and Scrutiny in Local Government

The Committee considered whether overview and scrutiny arrangements in England are working effectively and whether local communities are able to contribute to and monitor the work of their councils

The Committee called for evidence on the following areas:

- Whether scrutiny committees in local authorities in England are effective in holding decision-makers to account
- The extent to which scrutiny committees operate with political impartiality and independence from executives
- Whether scrutiny officers are independent of and separate from those being scrutinised
- How chairs and members are selected
- Whether powers to summon witnesses are adequate
- The potential for local authority scrutiny to act as a voice for local service users
- How topics for scrutiny are selected
- The support given to the scrutiny function by political leaders and senior officers, including the resources allocated (for example whether there is a designated officer team)
- What use is made of specialist external advisers
- The effectiveness and importance of local authority scrutiny of external organisations
- The role of scrutiny in devolution deals and the scrutiny models used in combined authorities
- Examples where scrutiny has worked well and not so well

Attached to this report is an extract of the conclusions and recommendations of the Committee. A copy of the full report, published on 15 December 2017, can be found at:

<https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/369/36902.htm>

At the time of writing, the Select Committee is still awaiting the formal response of Government to the recommendations

2. Information required to take a decision

The main findings of the Select Committee are précised in the table below. Whilst a formal response is still awaited to the recommendations, the Scrutiny Committee may wish to identify areas worthy of more detailed consideration, in the context of practice in Kirklees. It is suggested that such further discussions are scheduled once the formal Government response is available. It may be that consequent amendments are required to the Localism Act to enable some of the recommendations to be implemented.

Section	Issue
Party politics and organisational culture	<ul style="list-style-type: none">- Executive role in Scrutiny meetings- The role and appointment of the Chair of Scrutiny
Accessing Information	<ul style="list-style-type: none">- Scrutiny Committees ability to access information- Barriers to accessing exempt information

	<ul style="list-style-type: none"> - Engaging service users and external experts
Resources	<ul style="list-style-type: none"> - Diminished in light of wider reduction - Supported by officers who can operate with independence and provide impartial advice to Scrutiny Councillors - greater parity of esteem between Scrutiny and the Executive, and committees should have the same access to the expertise and time of senior officers and the Chief Executive as their Cabinet counterparts - Statutory Scrutiny Officer post-holder should have a seniority and profile of equivalence to the council's corporate management team. - Statutory Scrutiny Officers should also be required to make regular reports to Full Council on the state of Scrutiny, explicitly identifying any areas of weakness that require improvement and the work carried out by the Statutory Scrutiny Officer to rectify them.
Member Training and Skills	<ul style="list-style-type: none"> - Appropriateness of training provided by external agencies to Scrutiny Councillors
The role of the Public	<ul style="list-style-type: none"> - Clarity about the role of the public in Scrutiny – sufficient resources to be effective - Effective digital engagement -
Scrutinising Public Services provided by external bodies	<ul style="list-style-type: none"> - Committees must be able to 'follow the council pound' and have the power to oversee all taxpayer-funded services.
Scrutiny in Combined Authorities	<ul style="list-style-type: none"> - Any future devolution deals, the Government should see Scrutiny as part of the deal

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

None specific

3.2 Economic Resilience (ER)

None specific

3.3 Improving Outcomes for Children

None specific

3.4 Reducing demand of services

None specific

3.5 Other (eg Legal/Financial or Human Resources)

None specific however any further work should seek to dovetail and complement the work to implement the findings of Kirklees Democracy Commission

4. **Consultees and their opinions**

5. **Next steps**

Depending on the outcomes of discussions at the Scrutiny Committee meeting there may be further consideration required on specific areas of the Select Committee findings.

There may also be the need to discuss the findings and the implications of the Government response in other parts of governance structures.

6. **Officer recommendations and reasons**

1. That the OSMC note the findings and recommendations of the CLG Committee into Overview and Scrutiny in Local Government
2. That the Committee identify any areas for further work, in the context of practice in Kirklees .

7. **Cabinet portfolio holder's recommendations**

Not applicable

8. **Contact officer**

Penny Bunker , Governance and Democratic Engagement Manager
Tel: 01484 221000

9. **Background Papers and History of Decisions**

[www.parliament .uk](http://www.parliament.uk) – communities and local government inquiries page.

10. **Service Director responsible**

Julie Muscroft , Service Director Legal , Governance and Commissioning

Conclusions and recommendations

The role of scrutiny

1. *We therefore recommend that the guidance issued to councils by DCLG on overview and scrutiny committees is revised and reissued to take account of scrutiny's evolving role.* (Paragraph 12)

2. *We call on the Local Government Association to consider how it can best provide a mechanism for the sharing of innovation and best practice across the scrutiny sector to enable committees to learn from one another. We recognise that how scrutiny committees operate is a matter of local discretion, but urge local authorities to take note of the findings of this report and consider their approach.* (Paragraph 13)

Party politics and organisational culture

3. *However, all responsible council leaderships should recognise the potential added value that scrutiny can bring, and heed the lessons of high profile failures of scrutiny such as those in Mid Staffordshire and Rotherham.* (Paragraph 19)

4. *To reflect scrutiny's independent voice and role as a voice for the community, we believe that scrutiny committees should report to Full Council rather than the executive and call on the Government to make this clear in revised and reissued guidance. When scrutiny committees publish formal recommendations and conclusions, these should be considered by a meeting of the Full Council, with the executive response reported to a subsequent Full Council within two months.* (Paragraph 23)

5. *We believe that executive members should attend meetings of scrutiny committees only when invited to do so as witnesses and to answer questions from the committee. Any greater involvement by the executive, especially sitting at the committee table with the committee, risks unnecessary politicisation of meetings and can reduce the effectiveness of scrutiny by diminishing the role of scrutiny members. We therefore recommend that DCLG strengthens the guidance to councils to promote political impartiality and preserve the distinction between scrutiny and the executive.* (Paragraph 25)

6. *It is vital that the role of scrutiny chair is respected and viewed by all as being a key part of the decision-making process, rather than as a form of political patronage.* (Paragraph 27)

7. *We believe that there are many effective and impartial scrutiny chairs working across the country, but we are concerned that how chairs are appointed has the potential to contribute to lessening the independence of scrutiny committees and weakening the legitimacy of the scrutiny process. Even if impropriety does not occur, we believe that an insufficient distance between executive and scrutiny can create a perception of impropriety.* (Paragraph 30)

8. *We believe that there is great merit in exploring ways of enhancing the independence and legitimacy of scrutiny chairs such as a secret ballot of non-executive councillors. However, we are wary of proposing that it be imposed upon authorities by government. We therefore recommend that DCLG works with the LGA and CfPS to identify willing councils to take part in a pilot scheme where the impact of elected chairs on scrutiny's effectiveness can be monitored and its merits considered.* (Paragraph 35)

Accessing information

9. *Scrutiny committees that are seeking information should never need to be 'determined' to view information held by its own authority, and there is no justification for a committee having to resort to using Freedom of Information powers to access the information that it needs, especially from its own*

organisation. There are too many examples of councils being uncooperative and obstructive. (Paragraph 37)

10. Councils should be reminded that there should always be an assumption of transparency wherever possible, and that councillors scrutinising services need access to all financial and performance information held by the authority. (Paragraph 41)

11. We do not believe that there should be any restrictions on scrutiny members' access to information based on commercial sensitivity issues. Limiting rights of access to items already under consideration for scrutiny limits committees' ability to identify issues that might warrant further investigation in future, and reinforces scrutiny's subservience to the executive. *Current legislation effectively requires scrutiny councillors to establish that they have a 'need to know' in order to access confidential or exempt information, with many councils interpreting this as not automatically including scrutiny committees. We believe that scrutiny committees should be seen as having an automatic need to know, and that the Government should make this clear through revised guidance.* (Paragraph 42)

12. *We note that few committees make regular use of external experts and call on councils to seek to engage local academics, and encourage universities to play a greater role in local scrutiny.* (Paragraph 45)

13. We commend such examples of committees engaging with service users when forming their understanding of a given subject, and encourage scrutiny committees across the country to consider how the information they receive from officers can be complemented and contrasted by the views and experiences of service users. (Paragraph 47)

Resources

14. We acknowledge that scrutiny resources have diminished in light of wider local authority reductions. However, it is imperative that scrutiny committees have access to independent and impartial policy advice that is as free from executive influence as possible. We are concerned that in too many councils, supporting the executive is the over-riding priority, with little regard for the scrutiny function. This is despite the fact that at a time of limited resources, scrutiny's role is more important than ever. (Paragraph 61)

15. *We therefore call on the Government to place a strong priority in revised and reissued guidance to local authorities that scrutiny committees must be supported by officers that can operate with independence and provide impartial advice to scrutiny councillors. There should be a greater parity of esteem between scrutiny and the executive, and committees should have the same access to the expertise and time of senior officers and the chief executive as their cabinet counterparts. Councils should be required to publish a summary of resources allocated to scrutiny, using expenditure on executive support as a comparator. We also call on councils to consider carefully their resourcing of scrutiny committees and to satisfy themselves that they are sufficiently supported by people with the right skills and experience.* (Paragraph 62)

16. *We recommend that the Government extend the requirement of a Statutory Scrutiny Officer to all councils and specify that the post-holder should have a seniority and profile of equivalence to the council's corporate management team. To give greater prominence to the role, Statutory Scrutiny Officers should also be required to make regular reports to Full Council on the state of scrutiny, explicitly identifying any areas of weakness that require improvement and the work carried out by the Statutory Scrutiny Officer to rectify them.* (Paragraph 65)

Member training and skills

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

time detailing its assessment of the value for money of its investment in the LGA and on the wider effectiveness of local authority scrutiny committees. (Paragraph 76)

The role of the public

18. *The Government should promote the role of the public in scrutiny in revised and reissued guidance to authorities, and encourage council leaderships to allocate sufficient resources to enable it to happen. Councils should also take note of the issues discussed elsewhere in this report regarding raising the profile and prominence of the scrutiny process, and in so doing encourage more members of the public to participate in local scrutiny. Consideration also need to be given to the role of digital engagement, and we believe that local authorities should commit time and resources to effective digital engagement strategies. The LGA should also consider how it can best share examples of best practise of digital engagement to the wider sector.* (Paragraph 82)

Scrutinising public services provided by external bodies

19. *Scrutiny committees must be able to monitor and scrutinise the services provided to residents. This includes services provided by public bodies and those provided by commercial organisations. Committees should be able to access information and require attendance at meetings from service providers and we call on DCLG to take steps to ensure this happens. We support the CfPS proposal that committees must be able to 'follow the council pound' and have the power to oversee all taxpayer-funded services.* (Paragraph 90)

20. *In light of our concerns regarding public oversight of LEPs, we call on the Government to make clear how these organisations are to have democratic, and publicly visible, oversight. We recommend that upper tier councils, and combined authorities where appropriate, should be able to monitor the performance and effectiveness of LEPs through their scrutiny committees. In line with other public bodies, scrutiny committees should be able to require LEPs to provide information and attend committee meetings as required.* (Paragraph 96)

Scrutiny in combined authorities

21. *We are concerned that effective scrutiny of the Metro Mayors will be hindered by under-resourcing, and call on the Government to commit more funding for this purpose. When agreeing further devolution deals and creating executive mayors, the Government must make clear that scrutiny is a fundamental part of any deal and that it must be adequately resourced and supported.* (Paragraph 104)
