


Briefing paper: Overview & Scrutiny Committee Tuesday, 21 May 2024	 TOWER HAMLETS
Report of: Robin Beattie, Acting Director of Strategy, Improvement and Transformation	Classification: Open (Unrestricted)
Revised statutory guidance for councils on Overview and Scrutiny	

Originating Officer(s)	Afazul Hoque, Head of Corporate Strategy & Communities
Wards affected	All Wards
Exempt information	N/A

Executive Summary

This report sets out the key points of the new statutory guidance for councils on overview and scrutiny. It aims to raise awareness and the purpose of overview and scrutiny and how the local authority can be supported to deliver effective scrutiny. It offers advice for senior leaders, members of overview and scrutiny committees, scrutiny officers and officers with a role in supporting scrutiny committees.

Recommendations:

The Overview & Scrutiny Committee is recommended to:

1. Note the key points of the new statutory guidance (appendix 1) for councils on overview and scrutiny and provide any comments on its application.

1. REASONS FOR THE DECISIONS

- 1.1 This is the new statutory guidance requirement for all councils in England published on 22nd April 2024 and replaces the guidance published on 7th May 2019. Its aim is to raise awareness and help carry out the overview and scrutiny function effectively. It provides advice for senior leaders, members of overview scrutiny committees, scrutiny officers and any officers with a role in supporting scrutiny committees.

2. ALTERNATIVE OPTIONS

- 2.1 Do nothing, this is not recommended as this is a statutory guidance provides guidance on developing an effective scrutiny function.

3. DETAILS OF THE REPORT

- 3.1 Overview and Scrutiny Committees (OSC) were established from 2000 to support new executive arrangements and ensure that non-executive members could hold the executive to account on decisions and actions that affect their communities. The legal requirement to establish OSC is set out in sections 9F to 9FI of the Local Government Act 2000 as amended by the Localism Act 2011.
- 3.2 OSC have statutory powers to scrutinise decisions the executive is planning to take, those it plans to implement, and those that have been already taken/implemented. OSC may produce reports or recommendations to the council or mayor about the discharge of their functions, and also on matters that affect the borough and residents of the area. OSC plays a valuable role in shaping policy and recommendations following the scrutiny of issue enable improvements to be made to policies and implementation of these.
- 3.3 Centre for Governance and Scrutiny¹ (CfGS) outline 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; and
 - drive improvement in public services and strategic decision-making.
- 3.4 The culture of a council will largely determine whether its scrutiny function succeeds or fails. It is important that it is led and owned by members given their role in setting and maintaining the culture of a council. Benefits of a strong organisational culture encourages scrutiny work that can add value by improving policy making and the efficient delivery of public services. Conversely, the guidance² indicates that low levels of support for, and engagement with the scrutiny function often leads to poor quality and ill-focus work.

Establishing a strong culture

- 3.5 Recognising scrutiny’s legal and democratic legitimacy – this entails that both members and officers recognise and appreciate the importance and legitimacy of the scrutiny function afforded by the law. OSC act as a check and balance on the executive and is a statutory requirement for all council’s operating executive arrangements. Scrutiny members add value to the function as provide useful insights from their engagement and close connections with residents.
- 3.6 Identifying a clear role and focus - councils need to ensure that scrutiny has a clear role and focus within the organisation. Prioritisation is necessary to

¹ [CfGS-Good-Scrutiny-Guide-v4-WEB-SINGLE-PAGES.pdf \(cfgs.org.uk\)](#)

² [Overview and scrutiny: statutory guidance for councils, combined authorities and combined county authorities - GOV.UK \(www.gov.uk\)](#)

ensure the scrutiny function concentrates on delivering work of genuine value and relevance to the work of the wider council.

- 3.7 Early and regular engagement between the executive and scrutiny - council's need to ensure early and regular discussion takes place between the scrutiny function, the executive and any directly elected mayor, especially regarding the executive's or directly elected mayor's future work programme.
- 3.8 Managing disagreements – scrutiny will consider issues that can be politically sensitive or contentious and the executive or mayor may disagree with the findings or recommendations of the committee. Both the executive (including the Mayor) and scrutiny will need to work together to reduce the risk and take steps to predict, identify and act on disagreements. This can be achieved through an 'executive-scrutiny protocol'
- 3.9 Scrutiny support – when determining the allocation of resources to support the scrutiny function, councils need to consider the purpose of scrutiny (as set out in legislation) and the role and OSC and the function as a whole.
- 3.10 Impartiality – Senior officers must ensure that all officers are free to provide impartial advice to scrutiny committees. This is crucial to ensuring effective scrutiny and will include key roles for 'statutory officers' including monitoring, section 151, head of paid services and statutory scrutiny officer to provide timely, relevant and high-quality advice.
- 3.11 Scrutiny Profile and Comms – Scrutiny function can often lack support and recognition within a council because there might be a lack of awareness amongst both members and officers. Councils need to take measures and 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.
- 3.12 Independently led – formal committee meetings allow scrutiny members to question the executive and officers. Some committee members will be from the same political party as the member they are scrutinising (may also have a long-standing personal, or familial, relationship with them). It is crucial for scrutiny members need to adopt an independent mind-set to carry out their role effectively.
- 3.13 Councils with a directly elected mayor should note that mayors are required by law to attend OSC when asked to do so and guidance emphasises the need for a strong organisational culture to support scrutiny.

Resourcing

- 3.14 The level of resource allocated to the scrutiny function will determine how successful the function is and the value it produces towards the council's work. Decision for resourcing sits with individual councils and that council also need to recognise that resourcing is not only about budgets and or officer time (these are the essentials) and that effective support is also about the ways in

which the wider council engages with those who carry out the scrutiny function. Factors that the council need to consider when deciding level of resources for scrutiny include:

- Scrutiny's legal powers and responsibilities;
- Role and remit of scrutiny within the councils work and governance;
- Members and officer development;
- Need for technical and external expertise where this does not exist in the council
- Benefits of effectively resourced scrutiny – adds value to the work of the council, help policy development and minimises need for call-ins

3.15 Relevant councils are required to designate a statutory scrutiny officer whose role is to:

- promote the role of the authority's scrutiny committee
- provide support to the scrutiny committee and its members
- provide support and guidance to members and officers relating to the functions of the scrutiny committee

Selecting committee members

3.16 The process of selecting committee members for scrutiny committees is crucial for their effectiveness. Committees need members with the right skills, commitment and impartiality to be taken seriously. Political proportionality is required, however each council is autonomous to choose its chairs and other members. Executive members cannot serve on scrutiny committees to avoid conflicts of interest, and guidelines need to be in place to manage such conflicts, including familial links.

3.17 Selecting individual committee members – the council needs to consider the member's experience, expertise, interests, ability to act impartiality, ability to work in group settings and capacity to serve.

3.18 Chairs hold a leadership role on scrutiny committees and are responsible for establishing the committees profile, influence and ways of working. Chairs need to possess ability to lead and be able to build a sense of teamwork and consensus among committee members. Chairs must ensure that they are able protect the committee's independence but also avoid the committee being viewed as de facto opposition to the executive.

3.19 Members development – the council need to ensure that scrutiny members are offered induction when they take up the role and further training so they can carry out their responsibilities effectively. The council must ensure that scrutiny members are aware of their legal powers and understand preparation requirements to ask relevant questions at scrutiny sessions.

3.20 Co-option and technical advice – scrutiny members may have local insights and understanding of resident needs. However, the provision of external expertise can help where the council may not have the expertise.

Power to access Information

- 3.21 The council should recognise that for scrutiny committees to be effective in its role, it must have timely access to pertinent information held by the council. This is crucial to the committees role and the law grants scrutiny members the power to access information. Furthermore, the legislation provides enhanced power for scrutiny members to access exempt or confidential information, supplementing existing rights under common law and Freedom of Information Act 2000 and the Environmental Information regulation 2004.
- 3.22 Seeking information from external organisations - Scrutiny committees will need to consider insights and intelligence from other sources to complement council held information. They can exercise statutory powers to invite individuals to committee meetings and access data from certain external organisations.

Planning work

- 3.23 Effective scrutiny by the committees should result in practical recommendations that significantly impact the council's work. Achieving this will require scrutiny committees to plan their long-term agenda and remain flexible to address urgent issues as they arise. The council should note that coordinating multiple committees work efficiently is crucial to its success.
- 3.24 Scrutiny committees must have a clear role and focus, prioritising areas like risk, finances, and the way council works with partners. While all topics are open for scrutiny, a prioritisation process is necessary due to limited resources and capacity. The statutory scrutiny officer will take a leading role in supporting members to clarify the role and function of scrutiny, and championing that role once agreed.

4. EQUALITIES IMPLICATIONS

- 4.1 Scrutiny's work entails exploring how new strategies and policies, or key decisions may impact residents with protected characteristics. The guidance ensures diverse perspectives are considered and represented. It encourages scrutiny committees to recognise and accommodate different viewpoints among members, witnesses and other stakeholders.

5. OTHER STATUTORY IMPLICATIONS

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications – Effective scrutiny helps secure the efficient delivery of public services and drives improvement within

councils. This guidance alongside a range of other workstreams currently taking place will support improvements to the council's scrutiny function.

- Consultations,
- Environmental (including air quality),
- Risk Management,
- Crime Reduction,
- Safeguarding.
- Data Protection / Privacy Impact Assessment.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 There are no direct legal/finance implications arising from the recommendation to note this guidance. Any proposals to amend or changes to the scrutiny structure or operation at the Council will need to be subject to separate review by legal and finance

7. COMMENTS OF LEGAL SERVICES

- 7.1 There are no direct legal/finance implications arising from the recommendation to note this guidance. Any proposals to amend or changes to the scrutiny structure or operation at the Council will need to be subject to separate review by legal and finance

Linked Reports, Appendices and Background Documents

Appendices

Appendix 1 [Overview and scrutiny: statutory guidance for councils, combined authorities and combined county authorities - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

List any background documents not already in the public domain including officer contact information.

- NONE.

Officer contact details for documents:

Filuck Miah
Senior Strategy and Policy Officer
020 7364 1152
filuck.miah@towerhamlets.gov.uk