

Overview and Scrutiny Committee

29 September 2020



Title	Statutory Guidance on Overview and Scrutiny in Local Authorities		
Purpose of the report	To note		
Report Author	Gillian Scott, Principal Committee Manager		
Cabinet Member	Not applicable	Confidential	No
Corporate Priority	This item is not in the current list of Corporate priorities but still requires a Cabinet decision		
Recommendations	<p>The Committee is asked to review the new statutory guidance on Overview and Scrutiny (attached as Appendix 1) with a view to:</p> <ul style="list-style-type: none">1) Noting the policies, practice, and approaches detailed within the statutory guidance;2) Identifying any changes to current practice as a result of the guidance that can be directly implemented by the Committee; or by way of recommendation to Cabinet for any matters outside the Committee's remit.		
Reason for recommendation	Statutory guidance on Overview and Scrutiny has been published in May 2019 to ensure that local authorities carry out their Overview and Scrutiny functions effectively.		

1. Key issues

- 1.1 On 7 May 2019 the Ministry of Housing, Communities & Local Government published the document, 'Statutory Guidance for Local Authorities on Overview and Scrutiny'. The new 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.
- 1.2 The statutory O&S guidance 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 council 'must have regard' to the guidance but is not required to follow it in every detail.
- 1.3 Although it is statutory guidance, it is non-prescriptive and distinctly light-touch. It maintains that individual local authorities are best placed to decide how scrutiny should work within their own political structures. As such, individual local authorities are invited to determine whether to implement the policies and practices featured in the guidance.

- 1.4 Although parts of the guidance are focussed on the wider culture of the organisation towards scrutiny, and as such are beyond the remit of the Overview and Scrutiny Committee to directly determine, other sections provide more practical advice. Where the guidance makes practical recommendations, the Committee needs to consider how it wishes those to be implemented. The areas within the remit of the Committee to implement are highlighted in this report.
- 1.5 The guidance identifies effective scrutiny using six themes: culture, resourcing, selection of committee members, powers to access information, planning of work programmes, and evidence sessions.
- 1.6 The key content of the six themes is summarised below in sections 2 - 6 and the full report is attached at Appendix 1. Limited comment is offered.

2. Culture

- 2.1 The guidance acknowledges that the organisational culture within a local authority is a key determinant of the success or failure of O&S, and emphasises the importance of councillors in setting an environment for effective scrutiny.
- 2.2 The guidance lists a range of suggested mechanisms to help establish a strong organisational culture supportive of the role of scrutiny. These are:

a) Recognising scrutiny's legal and democratic legitimacy

The need for all councillors and officers to understand the importance and legitimacy of scrutiny, particularly its role as a check and balance on the Cabinet.

b) Identifying a clear role and focus

The guidance advocates scrutiny having a clearly defined role within the organisation and one that is focussed on providing value.

It is emphasised that there needs to be a clear division of responsibilities between the scrutiny and audit functions

c) Ensuring early and regular engagement between the executive and scrutiny

The guidance suggests there should be early and regular discussions between scrutiny and the Cabinet, especially about the future work programme of the Cabinet.

d) Managing disagreement

The guidance suggests that it is the job of the Cabinet and scrutiny to work together to reduce the risk of the Cabinet disagreeing with the findings or recommendations of the Overview and Scrutiny Committee (OSC). To achieve this, the development of a protocol is suggested to manage instances when the Cabinet disagrees with OSC recommendations.

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.

f) Ensuring impartial advice from officers

The guidance re-confirms the need for all officers to be able to give impartial advice to OSCs to help ensure effective scrutiny.

g) Communicating scrutiny's role and purpose to the wider authority

The guidance notes that scrutiny can lack support and recognition due to a lack of awareness within a local authority about its role.

h) Maintaining the interest of full Council in the work of Scrutiny

The guidance notes the importance of the wider membership of the Council being kept informed of the work of scrutiny. The suggested mechanism for this is through submitting OSC reports and recommendations to full Council rather than solely to the Cabinet.

i) Communicating scrutiny's role to the public

The guidance recommends scrutiny has a profile in the wider community and suggests engaging the Council's communications officers to help with this.

j) Ensuring scrutiny members are supported in having an independent mind-set

The guidance notes the potential difficulties for O&S councillors in having to scrutinise colleagues and their need for an independent mind-set.

- 2.3 Many parts of the above are outside of the remit of the Overview and Scrutiny Committee to directly influence. As such the Committee should consider highlighting these recommendations to the Cabinet.

3. Resourcing

- 3.1 The guidance suggests the resource allocated to scrutiny is fundamental in determining how effective the function is, before noting it is a matter for each local authority to decide.
- 3.2 Currently, the Council does not have a dedicated scrutiny officer post or a scrutiny budget for external advice and expertise. It is supported by the Deputy Chief Executive, Terry Collier.
- 3.3 This section of the guidance is also beyond the remit of the Overview and Scrutiny Committee to directly influence.

4. Selecting Committee Members

- 4.1 The guidance notes how important the councillors serving on OSCs are to the effective functioning of scrutiny. 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 councillors to serve on OSCs.
- 4.2 The selection of Scrutiny Members at this Council is by the respective political groups and as such beyond the direct control of the Overview and Scrutiny Committee.
- 4.3 The guidance recognises the importance and influence the role of Chairman has in the success of scrutiny. A suggestion is made for taking a vote by secret ballot as a method for selecting a scrutiny Chairman, but it is made clear that each local authority can choose the best method for their circumstances.

- 4.4 The guidance recommends that an induction and ongoing training are provided for scrutiny councillors to enable them to carry out their roles effectively.
- 4.5 The Council offers induction training and ongoing skills training to councillors, usually facilitated by Mark Palmer from South East Employers. All the training he has delivered to date has been well received by councillors and additional sessions on aspects of overview and scrutiny are envisaged for the forthcoming year. In addition, councillors are able to attend external O&S training courses (for example, with the Centre for Public Scrutiny and the Local Government Association).

5. Power to Access Information

- 5.1 The guidance notes the legal powers of an OSC to access information in order to do its job effectively. The guidance suggests a number of considerations for scrutiny when seeking information from external organisations, including the need to explain the purpose of scrutiny, the benefits of an informal approach, how to encourage compliance with the request, and who best to approach.
- 5.2 Spelthorne Borough Council has framed its approach to external organisations on a case by case basis and has historically experienced positive responses to providing documentation and appearing before its Committee.

6. Planning Work

- 6.1 The guidance stresses the importance of focusing on items that can make a tangible difference and having a long term plan, but one flexible enough to accommodate urgent, short term issues that arise.
- 6.2 The guidance suggests a variety of sources can inform the O&S 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 councillors having conversations with groups and individuals in their local communities.
- 6.3 The guidance also recommends approaches to shortlisting topics should ensure that the items chosen are ones in which scrutiny can add value.
- 6.4 At Spelthorne Borough Council, the O&S work programme is considered regularly and agreed formally by the OSC. Topics are shortlisted with reference to a standard criteria selection tool for assessing their significance for and value to our communities.
- 6.5 The Committee may wish to consider who else should be consulted in developing its work programme and how this could be accomplished.
- 6.6 The guidance suggests a number of ways to scrutinise topics, including as a single item on an agenda, a single item meeting, short or long-term task and finish groups, and a standing panel.
- 6.7 In the past year at Spelthorne, the majority of topics for O&S have been scrutinised as individual items on an agenda, a larger topic (Heathrow expansion) has involved a dedicated meeting, and more complex issues have already been identified as pieces of work for task groups next year.

7. Evidence Sessions

- 7.1 The guidance notes that evidence sessions are a key way for OSCs to inform their work and that they require 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.
- 7.2 Prior to each OSC meeting at Spelthorne Borough Council, a pre-meeting is held with the Chairman for discussing each agenda item and for question-planning. Given the importance of effective planning, the Committee might consider whether the current system of pre-meetings with the Chair allows this to be accomplished or whether other mechanisms should be considered.
- 7.3 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.

8. Next Steps

- 8.1 There are areas within the guidance, such as work programming and evidence sessions that relate specifically to processes within the control of the Committee.
- 8.2 As such the Overview and Scrutiny Committee is asked to give consideration to its current processes and whether any changes are required as a result of the guidance.
- 8.3 Any changes that the Committee identifies in relation to other matters covered in the guidance will need to be dealt with by way of a recommendation to Cabinet.

Background papers: There are none

Appendices:

Appendix 1 – Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities, May 2019.