

For general release

REPORT TO:	Scrutiny and Overview Committee 11 June 2019
SUBJECT:	Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities
LEAD OFFICER:	Simon Trevaskis Senior Democratic Services & Governance Officer - Scrutiny
CABINET MEMBER:	N/A
PERSON LEADING AT SCRUTINY COMMITTEE MEETING:	Councillor Sean Fitzsimons Chair of the Scrutiny & Overview Committee

CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON:

One of the roles of the Scrutiny and Overview Committee is to scrutinise the implementation of the Corporate Plan.

[Corporate Plan for Croydon 2018-2022](#)

ORIGIN OF ITEM:	This report was requested by the Chair of the Scrutiny & Overview Committee.
BRIEF FOR THE COMMITTEE:	The Committee is asked to review the new Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities with a view to: <ol style="list-style-type: none">1. Recommending the Guidance for consideration by the Governance Review Panel as part of its review of governance at Croydon Council.2. Highlighting particular areas of the Guidance for the Governance Review Panel's consideration.3. Identifying any changes to current practice as a result of the guidance that can be directly implemented by the Committee.

1. EXECUTIVE SUMMARY

- 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 Although this is statutory guidance, 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 focussed towards highlighting best practice, with it left to individual councils to determine its implementation.
- 1.3 Croydon Council is currently undertaking a review of its own governance arrangements, with a Governance Review Panel set up to oversee the process. The Scrutiny & Overview Committee needs to consider whether it wishes to recommend the guidance to the Governance Review Panel. In doing so the Committee should also consider whether there are any specific sections of the new guidance it would like to highlight for the Panel's consideration.
- 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 Scrutiny and Overview 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.

2. Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities

Background

- 2.1. In September 2017 the Communities and Local Government Select Committee undertook a review of the effectiveness of overview and scrutiny in local authorities. This review took into account a broad range of evidence from a variety of sources, including Croydon's Overview and Scrutiny Committee Chair, Councillor Sean Fitzsimons. The review concluded with the publication of the Select Committee's findings and recommendations in December 2017.
- 2.2. The Government published its response to the Communities and Local Government Select Committee report in March 2018, giving a commitment to publish new scrutiny guidance for local authorities by December 2018. Although the publication of the guidance was delayed, it was eventually published in May 2019. A copy of the full guidance is set out in Appendix 1.

Themes of the Guidance

- 2.3. The guidance highlights a number of specific areas that directly contribute towards the effectiveness of scrutiny. These range from practical advice on items such as the importance of work programming to the less tangible and harder to influence, such as organisational culture. The six themes as set out in the guidance are:
 - i. Culture
 - ii. Resourcing
 - iii. Selecting Committee Members
 - iv. Power to Access Information
 - v. Planning Work
 - vi. Evidence Sessions
- 2.4. The content of the six themes are summarised below, with the full report attached at Appendix 1.

Culture

- 2.5. The guidance acknowledges that organisational culture within local authorities is one of the key determinates of the success or failure of scrutiny, with an emphasis placed on the importance of scrutiny being owned and led by its Members.
- 2.6. It is also highlighted within the guidance that the performance of scrutiny and its effectiveness can be considered by external bodies such as regulators and published in public reports. For example, the Ofsted inspection of Children's Services at Croydon in June 2017 made reference to the Children & Young People Sub-Committee and a lack of a formal records to demonstrate a clear line of sight from elected members and senior managers to frontline practice.
- 2.7. 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, is highlighted within the guidance.

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.

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 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.

d) Managing Disagreement

The guidance recommends that a protocol is developed to manage any instances when the Cabinet disagrees with Scrutiny 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 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.

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.

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.

j) Ensuring scrutiny members are supported in having an independent mindset

The guidance acknowledges that the difficulty for Members in 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.

- 2.8. Many parts of the above are outside of the remit of the Scrutiny and Overview Committee to directly influence. As such the Committee should consider highlighting the above to the Governance Review Panel, asking that consideration be given to how these can be implemented.

Resourcing

- 2.9. 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.
- 2.10. In addition to specific officer support, the guidance highlights that any support should also include the way the wider Council engages with scrutiny.
- 2.11. This section of the guidance is also beyond the remit of the Scrutiny and Overview Committee to directly influence and as such should also be highlighted to the Governance Review Panel for further consideration.

Selecting Committee Members

- 2.12. 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.
- 2.13. 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.
- 2.14. The selection of Scrutiny Members at the Council is by the respective political groups and as such beyond the direct control of the Scrutiny & Overview Committee and should also be highlighted to the Governance Review Panel for further consideration
- 2.15. 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.
- 2.16. 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.

- 2.17. In the past year 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 is being arranged for the forthcoming year.
- 2.18. 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. At Croydon there are a number of co-optees appointed by scrutiny, including a representative from Healthwatch Croydon on the Health & Social Care Sub-Committee and a number of education representatives on the Children & Young People Sub-Committee.

Power to Access Information

- 2.19. The guidance reemphasises 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.
- 2.20. 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.
- 2.21. In order to act as a reminder for Members on requests made for further information at Committee meetings and to ensure that the information is provided, a specific section has been added to the minutes of each meeting setting out the requests made. This has ensured more timely responses to requests for information by the Committee.
- 2.22. The wider question of how and when information is provided to scrutiny is something that should be referred to the Governance Review Panel for further consideration.

Planning Work

- 2.23. 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.
- 2.24. It is recognised that there needs to be coordination across the work programmes of individual Scrutiny Committees/Sub-Committees with prioritisation being necessary to ensure that the intended outcome for a specific item remained focussed. Coordination will also help ensure that the best use is made of the available support for scrutiny.
- 2.25. At Croydon the work programme of the Committee/Sub-Committee is coordinated through regular meetings of the Scrutiny Chairs who ensure that items are prioritised and a balanced approach is taken.
- 2.26. 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.
- 2.27. At Croydon 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 healthcare field. Meetings are arranged for the Scrutiny Chairs with the respective senior managers responsible for those areas within the remit of each Committee/Sub-

Committee to inform work planning. Looking forward the Committee may wish to consider who else should be consulted and how this could be accomplished.

- 2.28. 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.
- 2.29. 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.
- 2.30. In the past year the majority of topics have been scrutinised as individual items on an agenda, but for larger topics whole meetings have been dedicated to a specific item and a task and finish group is currently in progress. The Committee may wish to give consideration to the different scrutiny mechanisms when planning their work programme going forward.

Evidence Sessions

- 2.31. 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.
- 2.32. Prior to each meeting of scrutiny at Croydon Council a pre-meeting is held to allow Members the opportunity to discuss each item coming up on the forthcoming agenda and plan the questions to be asked. Given that the guidance emphasises the importance of effective planning, the Committee should consider whether the current system of pre-meetings allows this to be accomplished or whether other mechanisms should be considered.
- 2.33. 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.
- 2.34. At the conclusion of each scrutiny meeting at Croydon, a 'wash up' session is held to finalise the recommendations to be made for each item. In the past year steps have been taken to improve the quality of recommendations made to ensure they 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.

3. Next Steps

- 3.1. The Scrutiny and Overview Committee is asked to recommend that the Governance Review Panel take account of the guidance as part of its review of governance processes at Croydon Council, with a specific focus on the following sections:
 - Culture
 - Resources
 - Selecting Committee Members &
 - Access to Information
- 3.2. There are areas within the guidance, such as work programming and evidence sessions that relate specifically to processes within the control of the Committee. As

such the Scrutiny and Overview Committee is ask to give consideration to its current processes and whether any changes are required as a result of the guidance.

Appendices

Appendix 1: Ministry of Housing Communities & Local Government – Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities

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BACKGROUND DOCUMENTS:

Communities and Local Government Committee – Effectiveness of Local Authority Overview and Scrutiny Committees

Government Response: Effectiveness of Local Authority Overview and Scrutiny Committees

<https://www.parliament.uk/business/committees/committees-a-z/commons-select/communities-and-local-government-committee/inquiries/parliament-2017/local-authority-scrutiny-17-19/>