

Part A

Report to: Overview and Scrutiny Committee

Date of meeting: 23 July 2019

Report author: Senior Democratic Services Officer

Title: Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities

1.0 Summary

1.1 This report sets out some of the key components of the Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities issued in May 2019.

2.0 Risks

2.1

Nature of risk	Consequence	Suggested Control Measures	Response (treat, tolerate, terminate or transfer)	Risk Rating (combination of severity and likelihood)
The council does not have regard to the guidance	The council has to be able to explain why it has not carried out scrutiny in line with the guidance	The council needs to be mindful of the guidance and ensure its scrutiny function meets legal requirements	Treat	4

3.0 Recommendations

3.1 that the report be noted.

Further information:

Sandra Hancock
democraticservices@watford.gov.uk
Tel: 01923 278377

Report approved by: Nazma Amalou, Head of Legal

4.0 **Detailed proposal**

4.1 The Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities was issued in May 2019. It was compiled following a House of Commons Select Committee report published in December 2017 taking into account written, oral evidence supplied to that Committee from individuals and organisations with practical involvement in conducting, researching and supporting scrutiny.

4.1.1 The guidance is aimed at local authorities and combined authorities in England and ensures they are aware of the purpose of overview and scrutiny committee. It contains policies and practices that authorities should adopt or consider adopting. However it states that authorities are best placed to decide what works best for their particular authority.

4.1.2 The guidance has been set out into six key areas which are referenced below.

4.2 **Culture**

4.2.1 The guidance stresses that an authority's organisational culture, behaviour and attitude will determine whether the scrutiny function succeeds or not. It is stated that it is led and owned by members. However, the whole council, officers and councillors, are responsible for ensuring scrutiny is effective.

4.2.2 Scrutiny is a statutory requirement for all authorities operating executive arrangements and was created to act as a check and balance on the executive. It is a strategic function and should concentrate on work that is of value and relevance to the authority.

4.2.3 The guidance comments that local authorities should ensure there is a clear division of responsibilities between the audit and scrutiny functions. The Section 151 officer can provide guidance on how the different work can be managed.

4.2.4 In this section the guidance also states that authorities 'ensure all members and officers are made aware of the role scrutiny plays'. The Senior Democratic Services Officer has recently given a presentation to the Operational Leadership Team on the role of scrutiny at Watford Borough Council. Regular updates will be presented at future meetings. A scrutiny report is presented to Council each year to show the work undertaken by scrutiny in the previous municipal year. Scrutiny is also included in the new member's induction as part of the Democratic Services section and part of the Political Structure presentation to new officers.

4.3 Resourcing

4.3.1 The guidance sets out information about resourcing scrutiny. It suggests that authorities should recognise that it is not just about budgets and officer time. It is also about the way the authority engages with scrutiny, both councillors and officers. Officers supporting scrutiny need to be able to provide impartial advice. The guidance sets out some factors to consider when setting levels of resources to be allocated to scrutiny. It highlights that ultimately the resource an authority allocates to the scrutiny function will play a pivotal role in determining how successful that function is and therefore the value it can add to the work of the authority.

4.4 Selecting Committee Members

4.4.1 The guidance states that the selection of the right members for scrutiny is important. Members need the right skillsets including the requisite expertise, commitment and ability to act impartially. Selection should also take into account a member's experience, interests and ability to work as part of a group

4.4.2 Authorities are reminded that members of the executive, including the Elected Mayor, cannot be members of a scrutiny committee.

4.4.3 The selection and role of chairs is mentioned. The same criteria for selecting committee members should also be used when selecting a chair for scrutiny. The chair also needs to be able to lead and build a sense of teamwork and consensus amongst the committee members. The guidance suggests that the selection of chair could be decided by a secret ballot, but how the chair is selected is a decision for each authority.

4.4.4 Authorities are advised to ensure that committee members are offered an induction and ongoing training to enable them to carry out their role effectively. The training should ensure councillors are aware of their legal powers, how to prepare for a meeting and how to ask relevant questions. Watford has adopted at Full Council the practice that scrutiny committee members must have training every two years in order to sit on the scrutiny committees.

4.5 Power to Access Information

4.5.1 It is acknowledged that scrutiny members need to be able to access relevant information held by the council to ensure they can work effectively. This was recognised in law with the publication of the 'Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.' This included scrutiny members having enhanced access to exempt or confidential information in order to carry out their work. All information should be timely and accurate. However, there may be occasions when there is a legitimate reason to

withhold information and the executive should provide a written statement setting out its reasons.

4.5.2 Scrutiny committees have the legal power to require executive members and officers to attend meetings.

4.5.3 Scrutiny committees also need to consider other sources of information. When asking an external organisation to attend scrutiny it is useful to explain the purpose of scrutiny. An informal approach can be useful in reassuring an organisation of the committee's aims, the types of information required and how the evidence session will be conducted. This can be important when 'following the council pound' and those services provided by an external company or organisation.

4.6 **Planning Work**

4.6.1 It is essential that scrutiny committees plan their work programme, which should be flexible, enabling changes as urgent issues arise. It is important to prioritise items, as it may not always be possible for a scrutiny committee to do everything it would like to do.

4.6.2 Evidence needs to be gathered to ensure that scrutiny is carrying out its work at an appropriate time. This is likely to involve discussions with relevant officers, the executive and the authority's partners.

4.6.3 Scrutiny committees need to be able to access relevant information to support the work programme. This can include –

- Performance information
- Finance and risk information
- Corporate complaints data
- Business cases and options appraisals, important for pre-decision scrutiny
- Reports from relevant ombudsmen, e.g. the Local Government and Social Care Ombudsman

It is suggested that it is usually better for members to review this information outside of the scrutiny committee. Therefore, it should be acknowledged that members are expected to carry out work around the scrutiny meetings in order to be prepared with questions when they come to the committee.

4.6.4 The guidance sets out various ways scrutiny can carry out its work with their advantages and disadvantages –

- Single item on a committee agenda
- At a single meeting, formal and informal
- Task and finish review over two or three meetings

- Task and finish review over a longer period
- Standing panel

4.7 **Evidence Sessions**

4.7.1 Evidence sessions are an important way scrutiny can gather information. Good preparation is a vital part of conducting effective evidence sessions. Members need to consider what they want to achieve from the session. At the end of a session the chair should be able to pull together themes and highlight the key findings. It is likely that recommendations will need to be drawn up separately.

4.7.2 When developing recommendations it would usually be appropriate for this to be done by the scrutiny committee or task group. However, they should be mindful of advice from officers. Recommendations should be SMART, specific, measurable, achievable, relevant and timed. The draft recommendations can be shared with relevant parties, including the executive, prior to the final report being completed. This should only be used to ensure there are no errors and as a sense-check.

4.8 **Final comments**

4.8.1 The statutory guidance provides local authorities with useful information about the way scrutiny can be conducted in an authority without being too prescriptive. It will be useful as the council works through its new scrutiny arrangements to be mindful of the guidance and if necessary adapt processes to ensure scrutiny is working at its optimum.

4.8.2 As mentioned earlier the Senior Democratic Services Officer has recently given a presentation to Operational Leadership Team to ensure senior officers are aware of scrutiny and its role within the council. Following discussions at the meeting this may be expanded in the future with further opportunities to highlight scrutiny at 'lunch and learn' sessions and inductions for officers.

4.8.3 At scrutiny meetings members will be encouraged to regularly review their work programme to ensure it remains appropriate. Members will also be asked for any specific areas they would like officers to cover in a proposed item and for them to ensure they understand the reason a subject is to be scrutinised. They will be reminded to ensure their recommendations are SMART and particularly relevant to the local community.

4.8.4 Following the publication of the statutory guidance, the Centre for Public Scrutiny has updated its 'Good Scrutiny Guide', which was published in June 2019. The Centre for Public Scrutiny assisted with information for the statutory guidance.

5.0 **Implications**

5.1 **Financial**

5.1.1 The Shared Director of Finance comments that there are no financial implications to this report.

5.2 **Legal Issues (Monitoring Officer)**

5.2.1 The Head of Democracy and Governance comments that Crucially whilst the guidance recognises that the authorities have democratic mandates and are ultimately accountable to their electorates and so best placed to know which scrutiny arrangements are most appropriate for individual circumstances, equally to remember that it is Statutory Guidance which comes from the Ministry of Housing, Communities and Local Government. It has been issued under section 9Q of the Local Government Act 2000 and under paragraph 2(9) of Schedule 5A to the Local Democracy, Economic Development and Construction Act 2009. Therefore status of the guidance enforced by Statute and whilst not every section of the guidance have to be followed in every detail but they should be followed unless there is a good reason not to in a particular case.

5.3 **Equalities, Human Rights and Data Protection**

5.3.1 This report does not introduce a new or amended policy or any service changes and therefore does not have any equalities, human rights or data protection implications.

5.4 **Staffing**

5.4.1 There are no staffing implications as a result of this report.

5.5 **Accommodation**

5.5.1 There are no accommodation implications as a result of this report.

5.6 **Community Safety/Crime and Disorder**

5.6.1 The Police and Justice Act 2006 requires local authorities to nominate a committee to scrutinise the local community safety partnership. At Watford Borough Council this is carried out by Overview and Scrutiny Committee.

5.7 **Sustainability**

5.7.1 There are no sustainability implications as a result of this report.

Appendices

None

Background papers

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report or follow the links.

[Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities](#)
[The Good Scrutiny Guide](#) by [Centre for Public Scrutiny](#)