



B O S T O N

B O R O U G H C O U N C I L

REPORT TO:	ENVIRONMENT AND PERFORMANCE COMMITTEE
DATE:	5 NOVEMBER 2019
SUBJECT:	NEW STATUTORY GUIDANCE ON OVERVIEW AND SCRUTINY IN LOCAL AND COMBINED AUTHORITIES
PORTFOLIO HOLDER:	N/A
REPORT AUTHOR:	CHIEF EXECUTIVE
EXEMPT REPORT?	NO

SUMMARY

In May 2019 the Ministry of Housing, Communities and Local Government (MHCLG) published new statutory guidance on Overview and Scrutiny in Local and Combined Authorities having taken into account the findings and recommendations of the House of Commons CLG Committee report on the effectiveness of local authority Overview and Scrutiny Committees, which was published in December 2017.

The guidance attached as Appendix 1, seeks to ensure local authorities are aware of the purpose of overview and scrutiny, what effective scrutiny looks like, how to conduct it effectively and the benefits it can bring.

Whilst recognising that authorities themselves are best placed to know which scrutiny arrangements are most appropriate for their own individual circumstances, the Ministerial forward urges all councils to cast a critical eye over their existing arrangements to ensure that the principles of effective scrutiny are embedded in practice.

RECOMMENDATIONS

1. That the Committee considers the attached statutory guidance on overview and scrutiny in local and combined authorities, reflects on the approach to scrutiny in Boston, and, if required, recommends changes to full Council, to ensure that overview and scrutiny in Boston is conducted in accordance with the published guidance.
2. That the draft Cabinet/Scrutiny Relations Protocol set out at Appendix 3, be recommended to Cabinet for referral to full Council.

The comments from the Corporate and Community Committee will also be forwarded to full Council.

REASONS FOR RECOMMENDATIONS

To ensure overview and scrutiny is operating in accordance with statutory guidance.

ALTERNATIVES CONSIDERED

None.

REPORT

1. Background

- 1.1 In December 2017 a House of Commons (Department of Communities and local Government) Select Committee published its report on the Effectiveness of Local Authority Overview and Scrutiny Committees, having considered information and evidence from a range of organisations and witnesses.
- 1.2 The Select Committee Inquiry was prompted by concerns expressed about the limited effectiveness of Overview and Scrutiny and the lack of any assessment of how Overview and Scrutiny had been operating since it was introduced by the Local Government Act 2000 as a counterweight to the increased centralised power of the new executive arrangements.
- 1.3 The Inquiry considered the ability of Overview and Scrutiny Committees to hold decision makers to account, the impact of party politics on scrutiny, resourcing of committees and the ability of scrutiny committees to have oversight of services delivered by external organisations.
- 1.4 The Select Committee made 21 findings and recommendations underpinned by two key conclusions; that effective scrutiny requires the right organisational culture, working best where constructive challenge and democratic accountability is welcomed and the independence of Overview and Scrutiny needs strengthening.
- 1.5 In particular the Select Committee called on the government to revise and re-issue the statutory guidance issued to Councils in 2006, under the Local Government Act 2000, to take into account the evolving role of scrutiny. It also called 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.
- 1.6 In March 2018 the Secretary of State for Housing, Communities and Local Government published the Government response to the Select Committee report stating its belief that every Council is best placed to decide which scrutiny arrangements suit its individual circumstances and committing to ensure that they have the flexibility they need to put those arrangements in place. The Government, in its response, committed to revise and re-issue the statutory guidance on Overview and Scrutiny.
- 1.7 The revised guidance was published in May 2019 and is attached at Appendix 1.

1.8 The Centre for Public Scrutiny, a national centre of expertise on scrutiny, assisted in drafting the new guidance and has published an update to their Good Scrutiny Guide which has been written to complement the statutory guidance.

2. Overview and Analysis of the Statutory Guidance

2.1 The introduction to the new statutory guidance states that Overview and Scrutiny Committees were introduced in 2000 as part of new executive arrangements to ensure that Members of an authority who were not part of the executive could hold the executive to account for the decisions and actions that affect their communities.

2.2 Overview and Scrutiny Committees have statutory powers to scrutinise decisions the executive is planning to take, those it plans to implement and those that have already been taken/implemented. The Guidance emphasises that recommendations following scrutiny enable improvements to be made to policies and how they are implemented and also that overview and scrutiny can play a valuable role in developing policy.

2.3 The Guidance restates the four principles of effective overview and scrutiny which should:-

- Provide constructive “critical friends” 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.

2.4 The guidance highlights that legislation provides a great degree of flexibility to local authorities to determine which overview and scrutiny arrangements best suit their own individual needs and that the government, in producing the guidance, fully recognises the democratic mandate of local authorities as well as the changing nature of local government with Councils increasingly delivering key services in partnership with other organisations or outsourcing entirely.

2.5 The key messages in the guidance are summarised below:-

- **Culture** – the prevailing organisational culture, behaviours, and attitudes of an authority will largely determine whether its scrutiny functions succeeds or fails.
- **Resourcing** – 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.
- **Selection of Committee Members** – the right people have to be selected to be on committees, and to hold the position of Chairman. The guidance gives a sense of the personal attributes that people in these positions will require. It recognises the political element of the selection of Chairmen and suggests that local authorities should consider taking a vote by secret ballot, although ultimately the method for selecting Chairmen is a matter for each local authority to decide.

- **Power to Access Information** – a scrutiny committee needs access to relevant information the authority holds, and to receive it in good time if it is to do its job effectively. This section emphasises the rights that Councillors have to access information and states that Councillors should have regular access to key sources of information which, collectively, will give them a sense of the management of the authority, with a particular focus on performance, finance and risk.
- **Planning Work** – effective scrutiny should have a defined impact on the ground, with the committees making recommendations that will make a tangible difference to the work of the authority. To have this kind of impact, overview and scrutiny committees need to plan their work programme with arrangements in place for a co-ordinated approach.
- **Evidence Sessions** – good preparation is a vital part of conducting effective evidence sessions. The role of Chairman in managing the gathering of evidence is seen as especially important, as is the work of councillors in pulling together focused and achievable recommendations.

2.6 The Centre for Public Scrutiny expects to publish a new guide for local authorities on effective scrutiny in the Autumn 2019.

3. Next Steps

3.1 A summary on how Boston compares to the recommended good practice in the guidance is attached at Appendix 2 for consideration, together with a draft Executive - Overview and Scrutiny Relations Protocol as mentioned as good practice within the statutory guidance, attached at Appendix 3.

3.2 The current overview and scrutiny arrangements in place are largely consistent with the recommendations, but the committee is invited to comment on key aspects which may require revision to current practices, including the adoption of an Executive – Scrutiny Protocol.

FINANCIAL IMPLICATIONS

None.

LEGAL & EQUALITY IMPLICATIONS

The statutory guidance 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, which requires local authorities to have regard to the guidance. In addition, when exercising its overview and scrutiny functions, the Council may have regard to other material they might choose to consider, including that issued by the Centre for Public Scrutiny.

ANY OTHER IMPLICATIONS

If the Council is assessed as having failed to comply with the statutory guidance it could impact on the reputation of the scrutiny function and the reputation of the Council.

CONSULTATION

Corporate and Community Committee – 16 October 2019

APPENDICES

Appendices are listed below and attached to the back of the report: -

APPENDIX 1	Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities
APPENDIX 2	Analysis of Statutory Guidance and comparison of current arrangements
APPENIDX 3	Executive – Overview and Scrutiny Relations Protocol

BACKGROUND PAPERS

Background papers used in the production of this report are listed below: -

Document title	Where the document can be viewed
Statutory Guidance on Overview and Scrutiny in Local and combined Authorities	https://www.gov.uk/government/publications/overview-and-scrutiny-statutory-guidance-for-councils-and-combined-authorities

CHRONOLOGICAL HISTORY OF THIS REPORT

Corporate and Community Committee – 16 October 2019