

NORTH LINCOLNSHIRE COUNCIL

GOVERNANCE SCRUTINY PANEL

**'OVERVIEW AND SCRUTINY: STATUTORY GUIDANCE FOR COUNCILS AND
COMBINED AUTHORITIES**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To respond to an added item submitted seeking, in essence, clarification on the Panel's response to the statutory guidance issued by the Ministry for Housing, Communities and Local Government (MHCLG) in May 2019 on Overview and Scrutiny in Local and Combined Authorities.
- 1.2 This report seeks to update the Panel on the key recommendations of the statutory guidance together with recommendations as to how the Panel may respond to the added item.

2. BACKGROUND INFORMATION

- 2.1 On 15 March 2018, the former Governance and Standards Scrutiny Panel considered the House of Commons Communities and Local Government Committee (the Select Committee) report of December 2017 on the Effectiveness of Local Authority Overview and Scrutiny Committees.
- 2.2 The Scrutiny Panel resolved to undertake a review of the Council's overview and scrutiny arrangements once the MHCLG had published revised guidance in response to the report.
- 2.3 The Select Committee report was prompted by concerns expressed about the limited national effectiveness of overview and scrutiny and the lack of any assessment of how overview and scrutiny had been operating since first introduced under the Local Government Act 2000 as a counterweight to the increased centralised power of the new executive arrangements. The Select Committee 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 council Scrutiny Panels to have oversight of services delivered by external organisations.
- 2.4 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 that the independence of overview and scrutiny needs strengthening.

- 2.5 In particular, the Select Committee called on the Government to revise and reissue 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.
- 2.6 In March 2018, the Secretary of State for Housing, Communities and Local Government published the Government's 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. It also committed to revise and re-issue the statutory guidance on overview and scrutiny.
- 2.7 In May 2019, the MHCLG issued revised statutory guidance on Overview and Scrutiny in Local and Combined Authorities as attached at Appendix A.
- 2.8 The guidance restates the four principles of effective overview and scrutiny, which 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.
- 2.9 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 them entirely.
- 2.10 The key findings in the guidance are summarised below:
- 2.10.1 Culture – the prevailing organisational culture, behaviours and attitudes of an authority will largely determine whether its scrutiny function succeeds or fails.
- 2.10.2 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.
- 2.10.3 Selection of Committee Members – the right people have to be selected to be on committees, and to hold the position of Chair. The guidance gives a sense of the personal attributes that people in these positions will require.

It recognises the political element of the selection to the role of Chair and suggests that Local Authorities should consider taking a vote by secret ballot, although ultimately the method for selecting the Chair is a matter for each Local Authority to decide.

- 2.10.4 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.
 - 2.10.5 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.
 - 2.10.6 Evidence Sessions – good preparation is a vital part of conducting effective evidence sessions. The role of the Chair in managing the gathering of evidence is seen as especially important – as is the work of Councillors in pulling together focused and achievable recommendations.
- 2.11 Although the Select Committee recommended that Scrutiny Committees should be able to require Local Enterprise Partnerships (LEPs) to provide information and attend Committee meetings, there is no provision for this in the new Statutory Guidance. There is however provision in the MHCLG National Growth Assurance Framework which was published in January 2019, which requires LEPs to agree with their Accountable Body the appropriate scrutiny arrangements to ensure that decisions have the necessary independent and external scrutiny in place.

3. OPTIONS FOR CONSIDERATION

- 3.1 Option 1 – That the Panel undertakes a review of the Council's current overview and scrutiny arrangements against the new statutory guidance.
- 3.2 Option 2 – That the Panel does not undertake a review of the Council's current overview and scrutiny arrangements against the new statutory guidance.

4. ANALYSIS OF OPTIONS

- 4.1 Option 1 – Although the legal soundness of the Council's overview and scrutiny arrangements have been externally validated in recent years, the operational effectiveness was last self-evaluated in 2007 against the

Overview and Scrutiny Evaluation Framework. The publication of the statutory guidance would provide a timely opportunity for the Council to carry out a fresh review of its overview and scrutiny arrangements against the statutory guidance. Moreover, as all of the Council's Scrutiny Panels work to the same overview and scrutiny arrangements, an opportunity presents for all panels to contribute to the review.

- 4.2 Option 2 – The Council continues to rely on its current overview and scrutiny arrangements.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 5.1 There is a budget held by Democratic Services to meet costs associated with overview and scrutiny activity each year. Any initiatives arising from the statutory guidance will have to be met from within existing resources or planned for in the preparation of the 2020/21 revenue budget for the Council.

6. OTHER RELEVANT IMPLICATIONS (e.g. CRIME AND DISORDER, EQUALITIES, COUNCIL PLAN, ENVIRONMENTAL, RISK etc.)

- 6.1 Undertaking a review of its overview and scrutiny arrangements against the new statutory guidance will allow enable the Council to receive assurance over the effectiveness of those arrangements.
- 6.2 The Overview and Scrutiny Procedure Rules are contained within the Council's Constitution. As such, any changes to these Rules arising from a review will require the approval of full Council.

7. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)

- 7.1 An Integrated Impact Assessment is not required for this report.

8. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTERESTS DECLARED

- 8.1 Should the Scrutiny Panel agree to review the Council's overview and scrutiny arrangements, consultation will take place with elected members, council officers and stakeholders, as appropriate.

9. RECOMMENDATION

- 9.1 That, in accordance with Option 1, the Panel undertakes a review of the Council's current overview and Scrutiny arrangements against the new statutory guidance.

- 9.2 That, in accordance with Procedure Rule D5.14 (a), the Panel consider establishing a joint scrutiny panel, consisting of all scrutiny Chair and Vice-Chairs, to carry out the review referred to in paragraph 9.1.

DIRECTOR: GOVERNANCE AND PARTNERSHIPS

Church Square House
30-40 High Street
SCUNTHORPE
North Lincolnshire
DN15 6NL

Author: Matthew Nundy
Date: 8 December 2019

Background Papers used in the preparation of this report

House of Commons Communities and Local Government Committee – Report on Effectiveness of Local Authority Overview and Scrutiny Committees December 2017
Government Response to the CLG Committee Report on Effectiveness of Local Authority Overview and Scrutiny Committees March 2018
Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities published May 2019