

Public Report  
Overview and Scrutiny Management Board

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**Overview and Scrutiny Management Board – 02 October 2019**

**Title:** Statutory guidance on overview and scrutiny in local government

**Is this a Key Decision and has it been included on the Forward Plan?**

No

**Strategic Director Approving Submission of the Report**

Assistant Chief Executive

**Report Author(s)**

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**Ward(s) Affected**

All

**Summary**

- 1.1 The Ministry of Housing, Communities & Local Government (MHCLG) published on 7 May 2019 new statutory guidance on overview and scrutiny in local government (attached as Appendix 1). The new statutory guidance for local (and combined) authorities in England stresses the role of scrutiny committees in holding decision makers to account and its importance in supporting the successful functioning of local democracy.
- 1.2 This paper summarises the key points outlined in the guidance and provides an opportunity for members of Overview and Scrutiny Management Board (OSMB) to comment and determine any learning or improvements that can be made to overview and scrutiny in Rotherham.

**2 Background**

- 2.1 The updated statutory guidance for local authorities suggests a number of procedures and practice that authorities should adopt or should consider adopting when deciding how to carry out their overview and scrutiny function. Its stated aim is *“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.”*
- 2.2 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. Local and combined authorities however **must have regard to** the guidance when exercising their scrutiny functions. The 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. ‘Must have regard to’ within the context of the statutory guidance does not mean that the statutory guidance must be followed in every detail but that it should be followed unless there is a good reason not to do so in particular circumstances.

- 2.3 The guidance reiterates the statutory powers of overview and scrutiny committees (OSCs) to scrutinise the decisions the executive is planning to take, those it plans to implement, and those already taken and/or implemented and make recommendations to enable improvements to be made to policies and how they are implemented. OSCs can also play a valuable role in developing policy.
- 2.4 The Chair and Vice-Chair of OSMB attended a symposium facilitated by the Centre for Public Scrutiny (CfPS) on 20 June 2019 on the subject of the statutory guidance. On the basis of the discussions, they were assured that the approach and processes adopted by overview and scrutiny in RMBC were compliant with the guidelines and in some instances, demonstrated good practice. However, in order to identify if there are any further areas for improvement to overview and scrutiny procedures and practices in Rotherham, OSMB may wish to undertake a detailed baseline assessment against the guidance criteria set out in paragraph 3.

### **3 Guidance**

- 3.1 The guidance contains sections setting out advice and good practice in the following areas which is summarised below:

- Culture
- Resourcing
- Selecting Committee Members
- Power to access information
- Planning work
- Evidence sessions

#### **3.2 Culture**

The guidance acknowledges that the prevailing organisational culture, behaviours and attitudes within a local authority will determine whether overview and scrutiny is successful. The importance of overview and scrutiny being owned and led by Members is emphasised. It is also highlighted within the guidance that the performance of overview and scrutiny and its effectiveness or failings can be considered by external bodies such as regulators and inspectors and published in public reports.

The guidance lists a range of suggested mechanisms to help ensure that the organisational culture is supportive of the role of scrutiny, including:

- a) recognising the legal and democratic legitimacy of overview and scrutiny - the need for all members and officers to recognise the importance and legitimacy of overview and 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 overview and scrutiny to have a clearly defined role within the organisation that is focussed on adding value. It is emphasised that there needs to be a clear division of responsibilities between overview and scrutiny and audit functions;
- c) ensuring early and regular engagement between the Cabinet and overview and scrutiny - it is recommended that there should be early and regular discussions between overview and scrutiny and the Cabinet, particularly in regard to the Cabinet's future work programme;
- d) managing disagreement - the guidance recommends that a protocol is developed to manage any instances when the Cabinet disagrees with recommendations of overview and scrutiny;

- e) providing the necessary support - the guidance recognises that determining the level of support available for overview and scrutiny is a matter for individual authorities, but it does highlight that appropriate support should be given to allow 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 overview and scrutiny highlighting, in particular, the importance of the 'statutory officer' roles (Head of Paid Service, Chief Financial Officer, Monitoring Officer and Statutory Scrutiny Officer);
- g) communicating the role and purpose of overview and scrutiny - the guidance highlights that a lack of awareness of the role of overview and scrutiny can act as an impediment to its success. The importance of overview and scrutiny and the role it plays in decision-making should be communicated, to ensure that officers are aware of the role of overview and scrutiny and the importance of providing support to the overview and scrutiny function;
- h) maintaining the interest of the Council in the work of overview and scrutiny - the guidance highlights the importance that other non-scrutiny members are kept informed of the work of overview and scrutiny. The suggested mechanism for this is through the submission reports and recommendations to full Council;
- i) communicating the role of overview and scrutiny to the public - the guidance suggests engaging with the Communications Team to publicise and raise awareness of the work of overview and scrutiny in the local community; and
- j) ensuring that overview and scrutiny members are supported in having an independent mindset.

### **3.3 Resourcing.**

The guidance does not prescribe a specific level of officer support to be allocated to overview and scrutiny, but it does highlight that an appropriate level of support is necessary to ensure that it functions effectively. The guidance also highlights that any support should also include the way the wider body of officers engages with overview and scrutiny.

### **3.4 Selecting Committee Members**

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 overview and scrutiny committees. The guidance recognises the importance that the role of the chair plays in the success of overview and scrutiny, with this role being responsible for establishing its profile, influence and ways of working. It is recommended that ongoing training is provided for Scrutiny Members to allow them to fulfil their roles successfully.

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.

### **3.5 Power to Access Information**

The guidance emphasises the legal powers for overview and scrutiny 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. The guidance also sets out a number of considerations for overview and 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.

### **3.6 Planning work**

The guidance stresses the importance of work programming to the success of overview and scrutiny, with a focus needed on items that can make a tangible difference. It is recommended that overview and 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.

It is recognised that there needs to be coordination across the work programmes of individual overview and scrutiny committees, with necessary prioritisation to ensure that the intended outcome for a specific item remains focussed.

The guidance recommends using a variety of sources to inform the work programme, including the public, partners and the Cabinet. In addition, it outlines information sources scrutiny can access, including performance information, finance and risk, complaints, reports and recommendations from inspections and ombudsmen.

The guidance also recommends the use of shortlisting processes to decide which topics to include in the work programme, to ensure that the items selected for overview and scrutiny activity can add value. The guidance sets out a number of different ways in which 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.

### **3.7 Evidence Sessions**

The guidance highlights that evidence sessions are a key way for overview and scrutiny committees to inform their work. 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 such objectives. In drafting recommendations from evidence sessions, the guidance advocates the need for these 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.

## **4 Recommendations:**

1. That the report be noted;
2. That consideration be given to any learning or improvements that can be made to scrutiny in Rotherham arising from the recommendations of the Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities.

### **List of Appendices Included**

Appendix 1: Ministry of Housing, Communities and Local Government (2019), Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities.

**Background Papers**

N/A

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

No

**Council Approval Required**

No

**Exempt from the Press and Public**

No