

Statutory Scrutiny Guidance – May 2019

The new statutory guidance, published in May 2019, is from the Ministry of Housing, Communities and Local Government. Local authorities must have regard to it when exercising their scrutiny functions and it is directly aimed at local authorities in England. In particular attention is drawn to the purpose of overview and scrutiny, what effective scrutiny looks like, general conduct and the benefits it can bring.

There is recognition to the way each authority approaches scrutiny, the different procedures in place and acknowledgement that what works well for one may not work for another. This briefing note summarises the key points and recommendations published in the guidance to inform scrutiny practice in Tameside.

Effective Overview and Scrutiny 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.
- Drive improvement in public services.

While everyone in an authority can play a role in creating an environment conducive to effective scrutiny, it is important that this is led and owned by members, given their role in setting and maintaining the culture of an authority. It is important to remember that the effectiveness of scrutiny, or lack thereof, is often considered by external bodies such as regulators and inspectors.

Authorities can establish a strong organisational culture by:

Recognising Scrutiny's legal and democratic legitimacy

All members and officers should recognise and appreciate the importance and legitimacy scrutiny is afforded by law. Councillors, by nature, have a closer connection and insight to residents and local people, which in itself brings a unique legitimacy with the ability to consult and seek views and opinions.

Identifying a clear role and focus

Prioritisation is necessary to ensure the scrutiny function concentrates on delivering work that is of genuine value and has relevance to the wider work and priorities of the authority. This is often one of the most challenging parts of scrutiny and a critical element to get right if it is to be truly recognised as a strategic function.

A clear division of responsibilities between scrutiny and audit functions. While it is appropriate for scrutiny to pay due regard to the authority's financial position, this will need to happen in context of the formal audit role.

Engagement between the Executive and Scrutiny

To ensure early and regular discussion takes place between Scrutiny and the Executive, especially with regarding activity and work programmes. The Scrutiny Chair should determine the nature and extent of an Executive Member's participation in both formal and informal activity of the Panel.

Influence

Scrutiny does have the power to 'Call In' decisions and to ask the Executive to reconsider before implementation. This should not be viewed as a substitute for early involvement in the decision making process or as a party political tool.

Appointed Scrutiny Chair's should pay special attention to the need to guard the Panel's independence. Importantly, they should take care to avoid the committee being viewed as, a de facto opposition to the Executive.

Access to information

Scrutiny members should have access to a regularly available source of key information. This can link directly to performance and risk to inform work priorities. While each request for information should be judged on its individual merits, it is best practice to adopt an agreed position of sharing information that is deemed to be appropriate for the remit and role of scrutiny.

Planning work

While scrutiny has a range of oversight powers, it can be difficult for authorities to support a function that carries out generalised reviews across a wide range of issues experienced by residents. Prioritisation is necessary, which means that while there might be things that, despite being important, scrutiny will not be able to look at.

Applying this focus does not mean that certain subjects are 'off limits'. It is more about looking at topics and deciding whether their relative importance, given available timescales and resource, justifies the positive impact that scrutiny involvement could bring.

The approach to shortlisting topics should reflect scrutiny's overall role within the authority. When considering whether an item should be included in the work programme, the questions to consider are:

- Do we understand the benefits scrutiny would bring to this issue?
- How could we best carry out work on this subject?
- What would be the best outcome of this work?
- How would this work engage with activity of the Executive and other decision makers, including partners?

Scrutiny Panels should consider keeping work priorities under regular review. It is likely to be easier to do this outside of the committee, or to bring a more formal update as a matter of course.

Carrying out work

Selected topics can be scrutinised in several ways, including:

- **Single agenda item at a formal panel meeting** – can present limited opportunity for effective scrutiny, but may be appropriate for some issues or where the committee wants to maintain closer oversight to a specific issue.
- **A single (one-off) meeting** – This can provide an opportunity to have a single public meeting about a given subject, or to have a meeting at which evidence is taken from a number of witnesses.
- **Task and finish** – short, sharp scrutiny reviews are likely to be most effective even for complex topics. The focused approach can ensure members can swiftly reach conclusions and make recommendations.
- **Longer and more in-depth reviews** – activity spread over a longer period can still be appropriate in certain instances. However, the nature of this work and time commitments can present further issues, unless for the most complex matters.
- **Establishing a standing panel** – this may be necessary to keep a watching brief over a local issue, especially where members feel a need to convene regularly to carry out such oversight.

Planning and preparation

Good preparation is a vital part of conducting effective evidence sessions. Members should have a clear idea of what is needed from each meeting and appreciate that success will depend on their ability to work together on the day. Effective planning should mean that at the end of a session it is relatively straightforward for the Chair to draw together themes and highlight key findings.

In order to improve the responsiveness of scrutiny activity it may be necessary for the Chair to seek approval of members to progress review activity outside of the formal meetings in a way to prevent delay in key findings and recommendations being shared with the Executive.