

**Corporate Overview and Scrutiny
Management Board**

23 July 2019



**Statutory Guidance on Overview and
Scrutiny in Local and Combined
Authorities**

Ordinary Decision

Report of Corporate Management Team

Lorraine O'Donnell, Director of Transformation and Partnerships

Electoral division(s) affected:

None

Purpose of the Report

- 1 To provide information on the new statutory guidance on overview and scrutiny in local and combined authorities published on 7 May 2019 by the Ministry of Housing, Communities and Local Government, and consider the Council's response.

Executive summary

- 2 The guidance provides advice for senior leaders, members of overview and scrutiny committees and support officers.
- 3 It recognises that authorities approach scrutiny in different ways and what might work for one authority might not work well for another.
- 4 As statutory guidance, local authorities must have regard to it in exercising their overview and scrutiny functions. The government states the guidance is not expected to be followed in every detail however it should be followed and if it is decided not to, a good reason should be demonstrated.
- 5 Durham County Council's overview and scrutiny arrangements are already robust and effective. An analysis of the new guidance has demonstrated that we already incorporate much that is recommended, and this is reflected in the delivery of excellent scrutiny work.

- 6 A summary of recommendations for action is set out in paragraph 19 and the proposed next steps in paragraph 22.
- 7 Appendix 2 provides more details, setting out an assessment of how the council is positioned against all points of the new guidance. It includes recommendations for action and, where no action is recommended, reasons for this. These have been developed following advice from chairs and vice chairs of scrutiny committees.

Recommendation(s)

- 8 The Corporate Overview and Scrutiny Management Board is recommended to:
 - (a) Consider and comment on the new guidance;
 - (b) Consider and comment upon the recommendations for action as set out in paragraph 19 below;
 - (c) Note that a report will be submitted to the Constitution Working Group following the completion of any work required as set out in paragraph 22 (c).

Background

- 9 The House of Commons Communities and Local Government Select Committee report into the effectiveness of local authority overview and scrutiny committees was published in 2018. The government responded to the Select Committee formally, undertaking to consult on new guidance. Following roundtable discussions with stakeholders and submissions from 30 local authorities including Durham County Council, new guidance has been recently published.
- 10 The guidance states that 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.
- 11 These four principles, originally developed by the Centre for Public Scrutiny, are embedded within the Council’s overview and scrutiny function. They are already reflected in the Council’s acknowledged model of good practice, recognised in the MJ award in 2016 for Excellence in Governance and Scrutiny.
- 12 The guidance covers the following six areas – culture, resourcing, selecting committee members, power to access information, planning

work and evidence sessions. It provides an opportunity to reflect on the Council's current arrangements against these six areas.

13 Culture

- Members of Durham County Council lead the overview and scrutiny process by developing comprehensive work programmes which reflect the issues which are important to County Durham and its communities. Scrutiny contributes to policy development and performance improvement through their review activity. This ownership of the work programme and strong organisational culture underpins scrutiny's legitimacy as an effective and strategic function.

14 Resourcing

- Scrutiny is effectively resourced within the Council which leads to successful engagement with officers from the council and with our partners. The Council has a dedicated scrutiny support team and good support from democratic services, and senior and specialist officers across all services. This is key to scrutiny adding value to the work of the council.

15 Selecting Committee Members

- The Council's constitution requires that committee chairs and members are appointed each year at the annual council meeting. This requirement reflects the principles of transparency and accountability which form part of our Code of Conduct for members. Role descriptors have been in place for some time to assist with selecting chairs and members and it would be timely to review these.

16 Power to Access Information

- The Council's experienced overview and scrutiny team have been very successful in accessing the information required for effective scrutiny within the Council, and through engaging with external partners, organisations and local academics. Those committees with statutory powers to access external information have a good track record of effective scrutiny e.g. the Adults, Wellbeing and Health Overview and Scrutiny Committee have been effective in influencing decisions around planned changes to Ward 6 at Bishop Auckland Hospital.

17 Planning Work

- The process for developing the Council's overview and scrutiny work programmes is consultative and comprehensive. Initial proposals are influenced by legislation, plans and strategies, performance reports and include engagement with the executive, partners and officers. Each overview and scrutiny committee has an experienced chair to ensure there is a clear focus on the committee's role and forward plan of work. Where there are any cross-cutting matters, joint meetings are held to avoid duplication and make the best use of capacity of both members and officers.

18 Evidence Sessions

- The Council received an Excellence in Governance and Scrutiny award in 2016 which acknowledged our overview and scrutiny function as a model of best practice. We continue to ensure that our community engagement, consultation and governance arrangements are strong and thorough.

19 The areas highlighted for the Council to consider for action in response to the guidance are summarised below:

New guidance	Recommendation/Action
How to establish a strong organisational culture (Appendix 2 Item 1)	It is proposed that no changes are required although consideration be given to offering training to officers attending and providing information for scrutiny meetings.
Managing disagreement (Appendix 2 Item 5)	It is proposed that no changes to the current arrangements are required in terms of an executive and scrutiny protocol, however consideration be given to the value of developing a protocol which could be used in a wider context with partners.
Communicating scrutiny's role and purpose to the wider authority (Appendix 2 Item 8)	The Statutory Scrutiny Officer to review the scrutiny reporting procedures in consultation with the Monitoring Officer to determine whether any further changes to arrangements should be considered.
Maintaining the interest of full council	The Statutory Scrutiny Officer to review the scrutiny reporting procedures to Council in consultation with the Monitoring Officer.

New guidance	Recommendation/Action
in the work of the scrutiny committee (Appendix 2 Item 9)	The review to consider the inclusion of a quarterly update from overview and scrutiny to council in addition to the current annual report. Consideration be given to either including the minutes of NECA Scrutiny meetings on the COSMB agendas or expanding the content of the Chairs Update to COSMB.
Selecting Committee Members (Appendix 2 Item 13)	It is proposed the role descriptors for members be reviewed to reflect the requirements of the new guidance.
Selecting a Chair (Appendix 2 Item 14)	It is proposed the role descriptors for committee chairs be reviewed to reflect the requirements of the new guidance.
Planning work (Appendix 2 Item 19)	Consideration could be given to reporting all the thematic overview and scrutiny committee work programmes to COSMB to provide oversight and co-ordination of scrutiny work.
Information sources (Appendix 2 Item 23)	It is proposed that the information highlighted in para 54 of the guidance regarding information sources routinely provided to scrutiny committees be reviewed periodically.

20 Appendix 2 provides extracts and summarises the main points in the guidance, the current practice in Durham County Council and any areas which may need further consideration. It also sets out reasons why no further action is proposed in response to the advice in the guidance on various issues.

21 Appendix 3 contains the Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities.

Next Steps

22 The process for consideration of the new guidance is as follows:

- a) Initial discussions have taken place with the Constitution Working Group on 8 July 2019 on the engagement process to be undertaken with overview and scrutiny members.
- b) A special meeting of COSMB held on 23 July 2019 to discuss the implications of the new guidance and recommend areas for further consideration.
- c) Officers work up any suggestions requiring further consideration and highlight any implications which may result in a change to process.
- d) A report be submitted to the Constitution Working Group setting out any proposed constitutional and procedural changes.
- e) The report be then submitted to Cabinet prior to submission to Council to agree any changes to the constitution.

Background papers

- Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities

Contact:	Jenny Haworth	Tel: 03000 268 071
	Clare Luery	Tel: 03000 265 978

Appendix 1: Implications

Legal Implications

The council has a statutory duty to adopt and maintain a constitution pursuant to s37 of the Local Government Act 2000. As set out in paragraph 4 of the report, the Council must have regard to the statutory guidance when determining its scrutiny arrangements and have good reasons for not following any aspects of the guidance.

Finance

There are no financial implications.

Consultation

As set out in the report, it is proposed that consultation with the scrutiny function take place through a special meeting of Corporate Overview and Scrutiny Management Board. The appropriate officers, including the monitoring officer will continue to be consulted regarding any amendments to the constitution which are relevant to them.

Equality and Diversity / Public Sector Equality Duty

None specific within this report.

Human Rights

None specific within this report.

Crime and Disorder

None specific within this report.

Staffing

None specific within this report.

Accommodation

None specific within this report.

Risk

None specific within this report.

Procurement

As set out in the report in relation to any changes to procurement arrangements.

Appendix 2: Extract and Summary - Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities

Attached as a separate document