

25 November, 2019

Implementing the new scrutiny guidance

Ward(s): All

Portfolios: All

1. Aim

Following the publication of the new guidance on overview and scrutiny in May 2019 the Scrutiny Overview Committee (SOC) has reviewed the requirements and made recommendations on how to implement it following feedback from an all Member event. At the last meeting on 29 August 2019 the Committee agreed several recommendations. This report takes forward those recommendations and presents the following:

1. Suggested principles and way forward to draft a Scrutiny-Cabinet Protocol;
2. A draft Co-option scheme for feedback and recommendation to Council for inclusion in the Constitution;
3. Amended sections of the Constitution regarding Member interests and scrutiny for feedback and recommendation to Council for approval;
4. Draft report writing and presentation guidance for feedback;
5. An updated draft scrutiny report template for feedback.

2. Recommendations

That, subject to any comments and feedback Members may offer:

1. The principles for the Scrutiny-Cabinet Protocol be supported and a draft be developed, in consultation with the Chair and Vice-Chair and the Leader and Deputy Leader, for consideration and agreement by the Scrutiny Overview Committee;
2. The draft Co-option Scheme be forwarded to Council for approval and inclusion in the Constitution as a new protocol;
3. The draft amendments to the Constitution in Part 4.5 'Overview and Scrutiny Procedure Rules' and 'Member Code of Conduct' be forwarded to Council for approval and inclusion in the Constitution;
4. The report format guidelines and updated report format be approved and rolled out for use across all Overview and Scrutiny Committees from January 2020.

3. Report detail - know

- 3.1 New guidance for overview and scrutiny was released by the Ministry for Housing, Communities and Local Government in May 2019. It provides advice

for senior leaders, overview and scrutiny committee members and support officers.

- 3.2 This is statutory guidance which all councils 'must have regard' to. This means it does not need to be followed in every detail but that it should be followed unless there is a good reason not to.
- 3.3 At the last meeting of the Scrutiny Overview Committee (SOC) agreed the following:
1. A Scrutiny-Executive Protocol be drafted for approval by the Scrutiny Overview Committee;
 2. guidance for Officers on writing reports to scrutiny with a focus on making reports more succinct with increased clarity be developed; for approval by the Scrutiny Overview Committee;
 3. subject to approval by the Scrutiny Overview Committee the Code of Conduct be developed to articulate:
 - a. That Cabinet assistants do not sit on O&SCs that relate to their portfolios;
 - b. That Scrutiny chairs do not preside over the scrutiny of their relatives;
 - c. How changes between executive and scrutiny roles can be managed, for example, when members stand down from the executive and move to a scrutiny role and vice versa.

Scrutiny-Cabinet Protocol

- 3.4 The guidance suggests that a Scrutiny-Cabinet Protocol could be beneficial in managing disagreements between the two parties as effective scrutiny often involves looking at issues that can be politically contentious. If Scrutiny and Cabinet work together then the risk of this happening can be reduced.
- 3.5 Further to this a protocol could be a way of embedding the good practice that exists at Walsall and assist in developing continuity across Overview and Scrutiny Committees.
- 3.6 In order to move forward it would be helpful for the Committee to agree the areas and themes that they would like the protocol to cover. These can then form a framework which is built upon by joint working with Cabinet. On this point it is suggested that the Chair and Vice Chair of the Scrutiny Overview Committee meet with the Leader and Deputy Leader to discuss and agree a draft protocol for approval by the Scrutiny Overview Committee in February 2020.
- 3.7 Potential areas that the protocol could include are:
- Conduct and tone of meetings - working together
 - Attendance and role of Cabinet Members at meetings
 - How to invite Cabinet Members to meetings
 - Engagement in drafting working programmes
 - Define call-in procedure at meetings

Working groups – consult/inform Cabinet at draft report stage
Recommendations – how to report and expected response
Managing disagreements
Role of scrutiny members at Cabinet meetings

Co-option Scheme

- 3.8 The guidance recognises the value that co-opted members and technical advisors can add to the work of scrutiny committees. In order to facilitate this the guidance states that all LAs ***must establish a co-option scheme to determine how individuals will be co-opted onto committees.***
- 3.9 This is the only must do in the guidance. Co-option is something which all OSCs can do already. A draft scheme is attached at Appendix 1 for Member feedback. If Members are agreeable to the draft scheme it is recommended that the SOC recommend it to Council for approval as an additional protocol in the Constitution.

Member interests

- 3.10 The new guidance suggests amending the code of conduct to manage the following issues:
- Cabinet assistants do not sit on scrutiny committees for the portfolios they assist;
 - It is strongly recommended that the Chair of a scrutiny committee does not oversee the scrutiny of a relative;
 - How to manage where members stand down from the executive and move in a scrutiny role and vice-versa.
- 3.11 To take these suggestions forward draft amendments to the Constitution are attached as follows:
- Appendix 2 - Part 4.5 'Overview and Scrutiny Committee Procedure Rules' is amended to clarify the role of Cabinet Assistants;
 - Appendix 3 – the Code of Conduct is amended to reflect that Members should scrutinise relatives and additional advice on how to manage situations when Members stand down from the executive and move into a scrutiny role.

Report format and template

- 3.12 At the all Member scrutiny event in July 2019 the predominant view was that succinct, focussed reports were more effective than long reports accompanied by dense appendices. With these points in mind it was suggested by Members that guidance be developed for authors on the requirements for reports to Committee.
- 3.13 The former Education and Children's Services Overview and Scrutiny Committee (E&CS OSC) developed strict guidance on drafting reports and presentations at meetings. This was considered by the SOC on 28 September 2017. The guidance used by the E&CS OSC has been updated for use across all OSCs and a draft for feedback is attached at Appendix 4.

- 3.14 The request to reduce the length of reports also requires reflection on the report template. Cabinet have recently updated their report template to reflect a 'ways of thinking framework' for reports. A copy of the 'ways of thinking framework' is attached at Appendix 5. It is suggested that a stripped back version of this framework is used by OSCs. A copy of the revised report template is attached at Appendix 6 and has also been used for this report as an example of what scrutiny reports could look like.

LGA Training

As requested by the Committee at its meeting in June the LGA delivered external scrutiny training with a Member Peer in October 2019. There were two sessions attended by 28 Members in total. Feedback from the training was good. The following points are the themes that emerged from the two sessions:

- Pre-decision scrutiny could increase
- Forward plan does not always contain all the decisions that Cabinet make
- Chairs could meet with Cabinet Members to set the work programme at the beginning of the year
- Pre-meetings of the committees to organise questioning could add value
- Improve engagement with other committees on cross cutting issues
- Improved research resources would be helpful. Access universities for working groups.
- Hear the story of residents
- Benchmarking is a good tool – the LGA have resources on this.
- Test recommendations through pilots

4. Decide

The guidance is statutory guidance and all councils 'must have regard' to it. This means it does not need to be followed in every detail but that it should be followed unless there is a good reason not to. The only 'must' do in the guidance is the Co-option Scheme.

5. Respond

Subject to approval of Members the amendments to the Constitution will be submitted to the next meeting of Council on 6 January 2020.

The Scrutiny-Cabinet Protocol will be drafted in consultation with the Chair and Vice-Chair of the Committee and the Leader and Deputy Leader. The outcome of this consultation will be reported to the SOC meeting on 4 February 2020.

The new report format and template will be rolled out with the expectation that it would be in use at all Overview and Scrutiny Committees from January 2020.

6. Review

It is suggested that the SOC review the success or otherwise of the changes proposed in this report in six and 12 months' time.

Background papers

None.

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