



ADUR & WORTHING  
COUNCILS

Joint Overview and Scrutiny Committee  
25 January 2018  
Agenda Item 8

Key Decision [No]

Ward(s): N/A

**Effectiveness of Local Authority Overview and Scrutiny Committees - Report from the House of Commons Communities & Local Government Select Committee**

**Report by the Director for Digital and Resources**

**Executive Summary**

**1. Purpose**

- 1.1 This report provides the Committee with a short analysis of the findings and recommendations from the report of the House of Commons Communities and Local Government Select Committee on the effectiveness of overview and scrutiny committees in local authorities which reported to Parliament in December 2017.
- 1.2 This report also provides the Committee with the opportunity to consider the findings and recommendations from the Select Committee report to assess if any areas for development or improvement need to be made to the Scrutiny Procedure Rules or other Governance arrangements to provide a change of approach to the Scrutiny function in Adur and Worthing.

**2. Recommendations**

- 2.1 That the report and recommendations from the Communities and Local Government Select Committee be noted; and
- 2.2 That the Joint Overview and Scrutiny Committee consider if there is a need

for development or improvement to the approach to overview and scrutiny in Adur and Worthing to reflect any of the findings in the Select Committee report.

### 3. Context

- 3.1 As part of its Work Programme for 2017/18, the House of Commons Communities & Local Government Select Committee undertook an inquiry into the effectiveness of overview and scrutiny committees in local authorities which ran from September 2017 until December 2017. The Committee decided to undertake the inquiry because there had not been a comprehensive assessment of how overview and scrutiny committees operate since their introduction by the Local Government Act 2000 and also because some local authorities had expressed dissatisfaction with the executive arrangements and the limited effectiveness of scrutiny.
- 3.2 A summary and analysis of the key recommendations from the Select Committee report is set out later on in this report and the full Select Committee report is available at [Effectiveness of Overview and Scrutiny](#) and the recommendations are contained in Appendix A to this report.

### 4.0 Issues for consideration

- 4.1 The Joint Overview and Scrutiny Committee (JOSC) reviewed its working practices in March 2017 and introduced some revised Procedural Rules. The way Overview and Scrutiny Committees operate is down to local discretion and having previously expressed a desire to review working practices on a regular basis to ensure that they continue to be effective, the publication of the findings from the Select Committee report provides JOSC with the opportunity to consider new approaches and introduce new Procedures if considered necessary, something which is in fact suggested to all Overview and Scrutiny Committees by the Select Committee in its report.
- 4.2 The Select Committee report is a comprehensive analysis of the effectiveness of overview and scrutiny committees and explains in detail the issues which it has discovered. However, a summary of the key issues from the report is set out as follows:-

**Organisational culture** - The report has discovered that the most significant factor in determining whether or not scrutiny committees are effective is the organisational culture of a particular Council. It suggests that having a positive culture where it is universally recognised that scrutiny can play a productive part in the decision making process is vital and such an approach is common

in the practices of effective scrutiny which it has identified. The report suggests that Senior Councillors from the ruling Group and Opposition and , Senior Officers have a responsibility to set the tone and create an environment that welcomes constructive challenge and scrutiny. If this does not happen and scrutiny is marginalised then it claims that there is a risk of damaging the Council's reputation and missing opportunities for scrutiny to improve service outcomes. Ineffective scrutiny can lead to severe service failures.

4.3 The Select Committee report has also identified a number of ways to make establishing a positive culture easier. It argues that in many authorities there is

no parity of esteem between the executive and scrutiny functions with a common perception that the former is more important than the latter. The report suggests that the relationships need to be balanced and that scrutiny should have more independence from the executive and that it can be achieved by enabling the Scrutiny Committees to report direct to Full Council meetings rather than the Executive. The report also considers how Scrutiny Committee Chairmen are appointed and suggests that appointment could be made by secret ballot if Councils were willing to do so.

4.4 **Access to information** - The Select Committee was also concerned about the access of Scrutiny Committees to the information which they need to carry out their work. It had heard of some Committees having to submit Freedom of Information requests to their own authorities in order to obtain information and of officers seeking to withhold information to blunt scrutiny's effectiveness. The Select Committee believes there is no justification for such practices which prevents Scrutiny Committees from contributing to service improvement. It, therefore suggests that Scrutiny Committees should be seen as having an automatic 'need to know' and is urging the Government to make that clear in revised guidance.

4.5 **Resources** - The Select Committee report also discusses the provision of staff support to the Scrutiny Committees. It claims that there is a culture within Councils of Directors not valuing scrutiny and that in many authorities, supporting the executive is the priority. It also suggests that the Statutory Scrutiny Officer role should be strengthened and be a requirement for all local authorities, not just Higher Tier Authorities.

4.6 **Scrutiny of Public service providers** - The Select Committee also consider that Scrutiny Committees should be allowed to provide more public oversight of commercial providers who may have entered into a contract with a democratic organisation and suggest that all Councils should consider when to involve Scrutiny when it is conducting a major procurement exercise.

4.7 A number of the recommendations relate to working practices and would need to be included as part of the JOSCS Procedure Rules or other Council governance arrangements if Adur and Worthing wanted to introduce those

Practices, other recommendations will rely on Government guidance being revised.

## **5.0 Engagement and Communication**

5.1 The JOSc Chairmen and Vice-Chairmen have been consulted on this report.

## **6.0 Financial Implications**

6.1 There are no direct financial implications relating to this report.

## **7.0 Legal Implications**

7.1 Under Section 111 of the Local Government Act 1972, the Council has the power to do anything to facilitate or which is conducive or incidental to the discharge of any of their functions.

7.2 Section 1 of the Localism Act 2011 provides a Local Authority to do anything that individuals generally may do (subject to any current restrictions or limitations prescribed in existing legislation).

7.3 Section 3(1) of the Local Government Act 1999 (LGA 1999) contains a general duty on a best value authority to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

7.4 JOSc can suggest making changes to the Councils' Governance arrangements and JOSc Procedure Rules if it considers that any of the recommendations proposed in the Select Committee report are appropriate for introducing in Adur and Worthing. Amendments to the JOSc Procedure Rules would need to be considered by the Joint Governance Committee and Councils as they form part of the Constitution.

### **Background Papers:**

None

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## **Sustainability & Risk Assessment**

### **1. Economic**

- 1.1 Better scrutiny of issues could lead to improved economic development in the areas depending upon the issues being scrutinised.

### **2. Social**

#### **2.1 Social Value**

Better scrutiny could impact on the social value in the communities depending on the issues being scrutinised.

#### **2.2 Equality Issues**

Better scrutiny can enable stronger public participation in the scrutiny process and engage people in the democratic process.

#### **2.3 Community Safety Issues (Section 17)**

Better scrutiny can lead to improvements in community safety depending upon the issues scrutinised.

#### **2.4 Human Rights Issues**

Matter considered and no issues identified.

### **3. Environmental**

Matter considered and no issues identified.

### **4. Governance**

Better scrutiny can improve the Councils' reputations. The outcomes from the discussion of this report might necessitate changes to the Joint Overview and Scrutiny Procedure rules and overall Governance arrangements for the Councils which would need to be referred to the Joint Governance Committee and Councils for approval.

## APPENDIX A

### **Select Committee report - Conclusions and recommendations**

#### **The role of scrutiny**

1. We recommend that the guidance issued to councils by DCLG on overview and scrutiny committees is revised and reissued to take account of scrutiny's evolving role.
  
2. We call 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. We recognise that how scrutiny committees operate is a matter of local discretion, but urge local authorities to take note of the findings of this report and consider their approach.
  
3. All responsible council leaderships should recognise the potential added value that scrutiny can bring, and heed the lessons of high profile failures of scrutiny such as those in Mid Staffordshire and Rotherham.
  
4. To reflect scrutiny's independent voice and role as a voice for the community, we believe that scrutiny committees should report to Full Council rather than the executive and call on the Government to make this clear in revised and reissued guidance. When scrutiny committees publish formal recommendations and conclusions, these should be considered by a meeting of the Full Council, with the executive response reported to a subsequent Full Council within two months.
  
5. We believe that executive members should attend meetings of scrutiny committees only when invited to do so as witnesses and to answer questions from the committee. Any greater involvement by the executive, especially sitting at the committee table with the committee, risks unnecessary politicisation of meetings and can reduce the effectiveness of scrutiny by diminishing the role of scrutiny members. We therefore recommend that DCLG strengthens the guidance to councils to promote political impartiality and preserve the distinction between scrutiny and the executive.
  
6. It is vital that the role of scrutiny chair is respected and viewed by all as being a key part of the decision-making process, rather than as a form of political patronage.
  
7. We believe that there are many effective and impartial scrutiny chairs working across the country, but we are concerned that how chairs are appointed has the potential to contribute to lessening the independence of scrutiny committees and weakening the legitimacy of the scrutiny process. Even if impropriety does not occur, we believe that an insufficient distance between executive and scrutiny can create a perception of impropriety.

8. We believe that there is great merit in exploring ways of enhancing the independence and legitimacy of scrutiny chairs such as a secret ballot of non-executive councillors. However, we are wary of proposing that it be imposed upon authorities by government. We therefore recommend that DCLG works with the LGA and CfPS to identify willing councils to take part in a pilot scheme where the impact of elected chairs on scrutiny's effectiveness can be monitored and its merits considered.

9. Scrutiny committees that are seeking information should never need to be 'determined' to view information held by its own authority, and there is no justification for a committee having to resort to using Freedom of Information powers to access the information that it needs, especially from its own organisation. There are too many examples of councils being uncooperative and obstructive.

10. Councils should be reminded that there should always be an assumption of transparency wherever possible, and that councillors scrutinising services need access to all financial and performance information held by the authority.

11. We do not believe that there should be any restrictions on scrutiny members' access to information based on commercial sensitivity issues. Limiting rights of access to items already under consideration for scrutiny limits committees' ability to identify issues that might warrant further investigation in future, and reinforces scrutiny's subservience to the executive. Current legislation effectively requires scrutiny councillors to establish that they have a 'need to know' in order to access confidential or exempt information, with many councils interpreting this as not automatically including scrutiny committees. We believe that scrutiny committees should be seen as having an automatic need to know, and that the Government should make this clear through revised guidance.

12. We note that few committees make regular use of external experts and call on councils to seek to engage local academics, and encourage universities to play a greater role in local scrutiny.

13. We commend such examples of committees engaging with service users when forming their understanding of a given subject, and encourage scrutiny committees across the country to consider how the information they receive from officers can be complemented and contrasted by the views and experiences of service users.

14. We acknowledge that scrutiny resources have diminished in light of wider local authority reductions. However, it is imperative that scrutiny committees have access to independent and impartial policy advice that is as free from executive influence as possible. We are concerned that in too many councils, supporting the executive is the over-riding priority, with little regard for the scrutiny function. This is despite the fact that at a time of limited resources, scrutiny's role is more important than ever.

15. We therefore call on the Government to place a strong priority in revised and reissued guidance to local authorities that scrutiny committees must be supported by officers that can operate with independence and provide impartial advice to scrutiny councillors. There should

be a greater parity of esteem between scrutiny and the executive, and committees should have the same access to the expertise and time of senior officers and the chief executive as their cabinet counterparts. Councils should be required to publish a summary of resources allocated to scrutiny, using expenditure on executive support as a comparator. We also call on councils to consider carefully their resourcing of scrutiny committees and to satisfy themselves that they are sufficiently supported by people with the right skills and experience.

16. We recommend that the Government extend the requirement of a Statutory Scrutiny Officer to all councils and specify that the post-holder should have a seniority and profile of equivalence to the council's corporate management team. To give greater prominence to the role, Statutory Scrutiny Officers should also be required to make regular reports to Full Council on the state of scrutiny, explicitly identifying any areas of weakness that require improvement and the work carried out by the Statutory Scrutiny Officer to rectify them.

17. It is incumbent upon councils to ensure that scrutiny members have enough prior subject knowledge to prevent meetings becoming information exchanges at the expense of thorough scrutiny. Listening and questioning skills are essential, as well as the capacity to constructively critique the executive rather than following party lines. In the absence of DCLG monitoring, we are not satisfied that the training provided by the LGA and its partners always meets the needs of scrutiny councillors, and call on the Department to put monitoring systems in place and consider whether the support to committees needs to be reviewed and refreshed. We invite the Department to write to us in a year's time detailing its assessment of the value for money of its investment in the LGA and on the wider effectiveness of local authority scrutiny committees.

18. The Government should promote the role of the public in scrutiny in revised and reissued guidance to authorities, and encourage council leaderships to allocate sufficient resources to enable it to happen. Councils should also take note of the issues discussed elsewhere in this report regarding raising the profile and prominence of the scrutiny process, and in so doing encourage more members of the public to participate in local scrutiny. Consideration also need to be given to the role of digital engagement, and we believe that local authorities should commit time and resources to effective digital engagement strategies. The LGA should also consider how it can best share examples of best practice of digital engagement to the wider sector.

19. Scrutiny committees must be able to monitor and scrutinise the services provided to residents. This includes services provided by public bodies and those provided by Effectiveness of local authority overview and scrutiny committees. Committees should be able to access information and require attendance at meetings from service providers and we call on DCLG to take steps to ensure this happens. We support the CfPS proposal that committees must be able to 'follow the council pound' and have the power to oversee all taxpayer-funded services.

20. In light of our concerns regarding public oversight of LEPs, we call on the Government to make clear how these organisations are to have democratic, and publicly visible, oversight. We recommend that upper tier councils, and combined authorities where appropriate, should



be able to monitor the performance and effectiveness of LEPs through their scrutiny committees. In line with other public bodies, scrutiny committees should be able to require LEPs to provide information and attend committee meetings as required.

21. We are concerned that effective scrutiny of the Metro Mayors will be hindered by under-resourcing, and call on the Government to commit more funding for this purpose. When agreeing further devolution deals and creating executive mayors, the Government must make clear that scrutiny is a fundamental part of any deal and that it must be adequately resourced and supported.