

Communities and Local Government Select Committee Review of Overview and Scrutiny in Local Government

Proposed submission from the Nottingham City Council Overview and Scrutiny Committee

Robust scrutiny of decision making is a crucial component of good governance. It is vital to have a mechanism for effectively holding decision makers to account for their decisions and the services received by citizens as a result of those decisions. The legislative framework for overview and scrutiny provides the basis for an open and transparent forum for democratically elected councillors to reflect the voice and concerns of local people in the review and scrutiny of decisions taken about local authority, health and other services that directly impact on their lives.

There are some really good examples within our own authority and nationally of where overview and scrutiny has provided constructive challenge and contributed to service improvements. In our experience the process is most effective when there is agreed recognition of the role for scrutiny and the benefits of engaging with overview and scrutiny are clear and accepted by all sides. Because there are explicit statutory duties for health scrutiny that are well established and acknowledged by NHS commissioners and there is otherwise an absence of democratic accountability within local NHS decision making structures health scrutiny is often the most effective aspect of overview and scrutiny activity.

Within the local authority there can be a perception that overview and scrutiny is an 'add on' rather than an integral part of the organisation's governance arrangements. One consequence of how Executive Governance arrangements have developed is that there can be a tendency for council officers to feel that they are primarily accountable to one councillor which risks overlooking the important role of other councillors, including those engaged in scrutiny activities, within the decision making structure. As a result the function is not always afforded the prominence it deserves and opportunities to make the most of its potential can be missed.

When the importance of being able to demonstrate the existence of robust scrutiny is promoted externally, for example by OFSTED, this has created a driver for decision makers to recognise the benefit of proactively engaging with the overview and scrutiny function. More could be done to clarify and confirm the role for overview and scrutiny in mitigating risks, such as the adequacy of safeguarding arrangements, to the local authority which would give overview and scrutiny an explicit and unavoidable part to play.

Being the counterbalance to expanding Executive power in an increasingly complex decision making environment, and risks associated with ineffective scrutiny (as evidenced in Mid Staffordshire and Rotherham for example) means that a lot is expected of overview and scrutiny functions and it can be difficult for lay councillors trying their best to carry out a very challenging role to live up to those expectations.

The role of a scrutiny councillor is difficult. It is sometimes referred to as 'something to keep backbench councillors occupied' but this hugely under-estimates the role. Done well, it requires on-going commitment to identifying issues for scrutiny, gathering local intelligence and evidence, undertaking research, formulating lines of enquiry and being confident enough to ask difficult questions, negotiating options and influencing often very senior decision makers within their own organisation and beyond. This task is made all the more difficult by the rightful need for scrutiny to be conducted in public. There can be a tendency for scrutiny committees to have a large membership, with the need for members to have a specific skill set and experience overlooked. In most circumstances a smaller committee of skilled and committed councillors would be more effective. The importance of selecting against required skills and experience is heightened in the selection of an overview and scrutiny chair. Arguably, chairing an overview and scrutiny committee is one of the most challenging chairing roles within a local authority and the skills and abilities, or otherwise, of the Chair heavily influence the credibility of the committee, which is critical to the process being viewed as beneficial and worthwhile by those that the committee is seeking to influence.

The challenging role of scrutiny councillor is just one of the many roles that local authority councillors are expected to play and therefore in order to carry out the role effectively adequate support is necessary. Ideally this would be through officers that are independent from those being scrutinised but, in reality, they are often not that far removed. We are fortunate to have retained some officers who, as part of their role, provide focused support to our overview and scrutiny committees. But this is no longer a separate and dedicated support function and the roles sit alongside other responsibilities. This has inevitably had a direct impact on the work carried out. As a title rather than an actual post, the introduction of a statutory scrutiny officer role has not made any discernable difference to the support provided to scrutiny. Unsurprisingly given the financial pressure that local authorities are under, the budget available to support our overview and scrutiny activities has reduced significantly since the function was originally established. This limits the ability to carry out activities that incur a financial cost, for example engaging specialist external advisors, but we seek to engage with others and maximise resources through a joint health scrutiny committee, inviting local representatives e.g. Healthwatch and voluntary organisations to contribute to scrutiny work.

A particular challenge that we would like to draw attention to is operating overview and scrutiny in an authority that has a very large majority of its councillors from one political party. It is really positive that legislation requires overview and scrutiny committees to be politically balanced but if the overall number of councillors from minority parties is very small then it can be difficult for them to have the capacity to engage effectively with the work of overview and scrutiny including potentially chairing scrutiny meetings. It is always going to be difficult for scrutiny to be truly independent from the Executive in a relatively small organisation such as a local

authority and this is made even more difficult when the vast majority of scrutiny councillors are from the same political party as the Executive and who they are working closely with on a day-to-day in other aspects of their councillor role. Current powers to summon witnesses are strong but, even with the best of intentions to operate with political impartiality, it is difficult to avoid small 'p' politics and the emphasis that overview and scrutiny needs to place on relationship building in order to successfully influence decision makers means that the decision to fall back on the legislation to summon witnesses is not taken lightly.