

**Report to:**

## **SCRUTINY LEADERSHIP BOARD**

**Relevant Officer:**

Sharon Davis, Scrutiny Manager

**Date of Meeting**

19 September 2019

## **NEW STATUTORY SCRUTINY GUIDANCE**

### **1.0 Purpose of the report:**

1.1 To review the new statutory scrutiny guidance, identifying areas and initiatives for implementation in Blackpool.

### **2.0 Recommendation(s):**

2.1 To identify changes required to the scrutiny function at Blackpool in light of the new statutory scrutiny guidance.

### **3.0 Reasons for recommendation(s):**

3.1 To ensure the scrutiny function at Blackpool is efficient and effective.

3.2 Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.3 Is the recommendation in accordance with the Council's approved budget? Yes

### **4.0 Other alternative options to be considered:**

4.1 No changes to be made based on the guidance.

### **5.0 Council priority:**

5.1 The relevant Council priorities are:

- The economy: Maximising growth and opportunity across Blackpool
- Communities: Creating stronger communities and increasing resilience.

### **6.0 Background information**

6.1 The new statutory scrutiny guidance was published in May 2019 and is applicable to all local authorities. The full guidance is attached at Appendix 4(a), however, a summary of the key areas and points is contained within the table below along with potential recommendations or suggested improvements to be implemented.

## 6.2

<b>Introduction and Context</b>	
<p>Effective overview and scrutiny should:</p> <ul style="list-style-type: none"> <li>• Provide constructive ‘critical friend’ challenge;</li> <li>• Amplify the voices and concerns of the public;</li> <li>• Be led by independent people who take responsibility for their role; and</li> <li>• Drive improvement in public services.</li> </ul>	
<b>Culture</b>	
<p>The prevailing organisational culture, behaviours and attitudes of an authority will largely determine whether its scrutiny function succeeds or fails. 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.</p> <p>Creating a strong organisational culture supports scrutiny work that can add real value by, for example, improving policy-making and the efficient delivery of public services. In contrast, low levels of support for and engagement with the scrutiny function often lead to poor quality and ill-focused work that serves to reinforce the perception that it is of little worth or relevance.</p> <p>Members and senior officers should note that the performance of the scrutiny function is not just of interest to the authority itself. Its effectiveness, or lack thereof, is often considered by external bodies such as regulators and inspectors, and highlighted in public reports, including best value inspection reports. Failures in scrutiny can therefore help to create a negative public image of the work of an authority as a whole.</p>	<p>Culture was also a focus of the North West Employer’s Scrutiny Review.</p> <p>Recommendations have been implemented to raise the profile including reporting to Council and Corporate Leadership Team and building the relationship between the Executive and Scrutiny. Scrutiny has been referenced in Ofsted inspection reports of Blackpool services.</p>
<b>How to establish a strong organisational culture</b>	
<p><b>Recognising scrutiny’s legal and democratic legitimacy</b> it is a statutory requirement for all authorities operating executive arrangements. Councillors have a unique legitimacy derived from their being democratically elected. The insights that they can bring by having this close connection to local people are part of what gives scrutiny its value.</p>	

<p><b>Identifying a clear role and focus</b> i.e. a niche within which it can clearly demonstrate it adds value. Therefore, prioritisation is necessary to ensure the scrutiny function concentrates on delivering work that is of genuine value and relevance to the work of the wider authority. Authorities should ensure a clear division of responsibilities between the scrutiny function and the audit function. While it is appropriate for scrutiny to pay due regard to the authority's financial position, this will need to happen in the context of the formal audit role. The authority's section 151 officer should advise scrutiny on how to manage this dynamic.</p>	<p>The Scrutiny Leadership Board has a key role in co-ordinating work and each Committee has undertaken a workplanning workshop to identify topics.</p>
<p><b>Ensuring early and regular engagement between the executive and scrutiny</b> - authorities should ensure early and regular discussion takes place between scrutiny and the executive, especially regarding the latter's future work programme.</p>	<p>Chairs/Vice Chairs to ensure regular dialogue. Engagement at Scrutiny Leadership Board.</p>
<p><b>Managing disagreement</b> - effective scrutiny involves looking at issues that can be politically contentious. It is therefore inevitable that, at times, an executive will disagree with the findings or recommendations of a scrutiny committee. It is the job of both the executive and scrutiny to work together to reduce the risk of this happening, and authorities should take steps to predict, identify and act on disagreement. One way in which this can be done is via an 'executive-scrutiny protocol' which can help define the relationship between the two and mitigate any differences of opinion before they manifest themselves in unhelpful and unproductive ways.</p>	<p>Executive/Scrutiny protocol is currently being revised.</p>
<p><b>Providing the necessary support</b> - Support should also be given by members and senior officers to scrutiny committees and their support staff to access information held by the authority and facilitate discussions with representatives of external bodies. The authority should consider:</p> <ul style="list-style-type: none"> <li>• Scrutiny's legal powers and responsibilities;</li> <li>• The particular role and remit scrutiny will play in the authority;</li> <li>• The training requirements of scrutiny members and support officers, particularly the support needed to ask effective questions of the executive and other key partners, and make effective recommendations;</li> <li>• The need for ad hoc external support where expertise does not exist in the council;</li> <li>• Effectively-resourced scrutiny has been shown to add value to the work of authorities,</li> </ul>	<p>Introduction to scrutiny training has been held as part of the induction process. Specific sessions will be held on Children's Services, Adult Services, Health Scrutiny and Financial Scrutiny in 2019. Specialist Scrutiny Chairs training was also held, although not well</p>

<p>improving their ability to meet the needs of local people; and</p> <ul style="list-style-type: none"> <li>Effectively-resourced scrutiny can help policy formulation and so minimise the need for call-in of executive decisions.</li> </ul>	<p>attended. Chairs are invited to take part in the Member Scrutiny North West Network.</p>
<p><b>Ensuring impartial advice from officers</b> – authorities, particularly senior officers, should ensure all officers are free to provide impartial advice to scrutiny committees. This is fundamental to effective scrutiny. Of particular importance is the role played by ‘statutory officers’ – the monitoring officer, the section 151 officer and the head of paid service, and where relevant the statutory scrutiny officer. These individuals have a particular role in ensuring that timely, relevant and high-quality advice is provided to scrutiny.</p>	
<p><b>Communicating scrutiny’s role and purpose to the wider authority</b> – the scrutiny function can often lack support and recognition within an authority because there is a lack of awareness among both members and officers about the specific role it plays, which individuals are involved and its relevance to the authority’s wider work. Authorities should, therefore, take steps to ensure all members and officers are made aware of the role the scrutiny committee plays in the organisation, its value and the outcomes it can deliver, the powers it has, its membership and, if appropriate, the identity of those providing officer support.</p>	<p><b>Members to consider if any further action can be taken to further promote the role and purpose of scrutiny.</b> Scrutiny Manager will be attending department meetings and CLT to raise profile.</p>
<p><b>Maintaining the interest of full Council in the work of the scrutiny committee</b> – part of communicating scrutiny’s role and purpose to the wider authority should happen through the formal, public role of full Council – particularly given that scrutiny will undertake valuable work to highlight challenging issues that an authority will be facing and subjects that will be a focus of full Council’s work. Authorities should therefore take steps to ensure full Council is informed of the work the scrutiny committee is doing.</p>	<p>Reporting to Council two times per year by the Chair of the Scrutiny Leadership Board.</p>
<p><b>Communicating scrutiny’s role to the public</b> – authorities should ensure scrutiny has a profile in the wider community. Consideration should be given to how and when to engage the authority’s communications officers, and any other relevant channels, to understand how to get that message across.</p>	<p>To be progressed further.</p>

<p><b>Ensuring scrutiny members are supported in having an independent mindset</b> – formal committee meetings provide a vital opportunity for scrutiny members to question the executive and officers. Inevitably, some committee members will come from the same political party as a member they are scrutinising and might well have a long-standing personal, or familial, relationship with them. Scrutiny members should bear in mind, however, that adopting an independent mind-set is fundamental to carrying out their work effectively. In practice, this is likely to require scrutiny chairs working proactively to identify any potentially contentious issues and plan how to manage them.</p>	
<p>Selecting Committee Members</p>	
<p>Selecting the right members to serve on scrutiny committees is essential if those committees are to function effectively. Where a committee is made up of members who have the necessary skills and commitment, it is far more likely to be taken seriously by the wider authority.</p> <p>Members invariably have different skill-sets. What an authority must consider when forming a committee is that, as a group, it possesses the requisite expertise, commitment and ability to act impartially to fulfil its functions.</p> <p><b>Selecting a Chair</b> The Chair plays a leadership role on a scrutiny committee as they are largely responsible for establishing its profile, influence and ways of working.</p> <p>Chairs should pay special attention to the need to guard the committee’s independence. Importantly, however, they should take care to avoid the committee being, and being viewed as, a de facto opposition to the executive.</p> <p><b>Training</b> Authorities should ensure committee members are offered induction when they take up their role and ongoing training so they can carry out their responsibilities effectively. Authorities should pay attention to the need to ensure committee members are aware of their legal powers, and how to prepare for and ask relevant questions at scrutiny sessions.</p>	<p>Job role profiles for Scrutiny Members and Chairs/Vice Chairs were provided to political groups following the election.</p> <p>Induction training has been held and there is an ongoing programme of scrutiny training.</p> <p>Appointments are currently being sought for the statutory co-opted members for the education and consideration is being given through the scope of each scrutiny panel of the representatives that</p>

<p>While members and their support officers will often have significant local insight and an understanding of local people and their needs, the provision of outside expertise can be invaluable. (Co-opted Members or independent external advisers).</p>	<p>could be invited to attend.</p>
<p><b>Power to access information</b></p>	
<p>A scrutiny committee needs access to relevant information the authority holds, and to receive it in good time, if it is to do its job effectively. This need is recognised in law, with members of scrutiny committees enjoying powers to access information. In particular, regulations give enhanced powers to a scrutiny member to access exempt or confidential information.</p> <p>As committees can meet in closed session, commercial confidentiality should not preclude the sharing of information. Authorities should note, however, that the default for meetings should be that they are held in public</p> <p>When considering what information scrutiny needs in order to carry out its work, scrutiny members and the executive should consider scrutiny’s role and the legal rights that committees and their individual members have, as well as their need to receive timely and accurate information to carry out their duties effectively.</p> <p>Scrutiny members should have access to a regularly available source of key information about the management of the authority – particularly on performance, management and risk. Where this information exists, and scrutiny members are given support to understand it, the potential for what officers might consider unfocused and unproductive requests is reduced as members will be able to frame their requests from a more informed position.</p> <p>The law recognises that there might be instances where it is legitimate for an authority to withhold information and places a requirement on the executive to provide the scrutiny committee with a written statement setting out its reasons for that decision<sup>13</sup>. However, members of the executive and senior officers should take particular care to avoid refusing requests, or limiting the information they provide, for reasons of party political or reputational expediency.</p>	<p>The Forward Plan will be circulated upon publication to all scrutiny members with an invitation to request additional information on any of the decisions to be taken.</p> <p>A report will be received by the SLB regarding receipt of key performance management information. Members to determine how they wish to review and scrutinise the data.</p>

<p><b>Seeking information from external organisations</b></p> <p>Scrutiny members should also consider the need to supplement any authority-held information they receive with information and intelligence that might be available from other sources, and should note in particular their statutory powers to access information from certain external organisations.</p> <p>When asking an external organisation to provide documentation or appear before it, and where that organisation is not legally obliged to do either, scrutiny committees should consider the following:</p> <ul style="list-style-type: none"> <li>• The need to explain the purpose of scrutiny</li> <li>• The benefits of an informal approach</li> <li>• How to encourage compliance with a request</li> <li>• Who to approach</li> </ul>	<p>A 'Guide to Scrutiny' is being developed which will include a section on input from external organisations.</p>
<p><b>Planning work</b></p>	
<p>Effective scrutiny should have a defined impact on the ground, with the committee making recommendations that will make a tangible difference to the work of the authority. To have this kind of impact, scrutiny committees need to plan their work programme, i.e. draw up a long-term agenda and consider making it flexible enough to accommodate any urgent, short-term issues that might arise during the year.</p> <p>Authorities with multiple scrutiny committees sometimes have a separate work programme for each committee. Where this happens, consideration should be given to how to co-ordinate the various committees' work to make best use of the total resources available.</p> <p>Scrutiny works best when it has a clear role and function. This provides focus and direction. While scrutiny has the power to look at anything which affects 'the area, or the area's inhabitants', authorities will often find it difficult to support a scrutiny function that carries out generalised oversight across the wide range of issues experienced by local people, particularly in the context of partnership working. Prioritisation is necessary, which means that there might be things that, despite being important, scrutiny will not be able to look at.</p>	<p>Each Committee held a workplanning workshop and the Scrutiny Leadership Board will be taking a coordinating approach to the workplans. Each workplan was developed in a slightly different way with some seeking input from the Executive, officers and partners.</p> <p><b>Members may wish to consider introducing a consistent approach to</b></p>

**Who to speak to**

- The public – input through Councillors who have conversations with constituents
- The authority’s partners – public bodies, voluntary groups
- The Executive - should not direct scrutiny’s work, but conversations will help scrutiny members better understand how their work can be designed to align with the best opportunities to influence the authority’s wider work.

**Information sources**

Scrutiny will need access to relevant information to inform its work programme. The type of information will depend on the specific role and function scrutiny plays within the authority, but might include:

- Performance information from across the authority and its partners;
- Finance and risk information from across the authority and its partners;
- Corporate complaints information, and aggregated information from political groups about the subject matter of members’ surgeries;
- Business cases and options appraisals (and other planning information) for forthcoming major decisions. This information will be of particular use for pre-decision scrutiny; and
- Reports and recommendations issued by relevant ombudsmen, especially the Local Government and Social Care Ombudsman.

**Shortlisting topics**

Approaches to shortlisting topics should reflect scrutiny’s overall role in the authority. This will require the development of bespoke, local solutions, however when considering whether an item should be included in the work programme, the kind of questions a scrutiny committee should consider might include:

- 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 the activity of the executive and other decision-makers, including partners?

**workplanning across the Committees for future years bearing in mind the suggestions of who to speak to and information sources to consider contained within the guidance.**

No scoring system was used in developing the workplans, however, a scrutiny review checklist is in operation for suggestions made throughout the year.

**Members may wish to consider establishing a**

Some authorities use scoring systems to evaluate and rank work programme proposals. If these are used to provoke discussion and debate, based on evidence, about what priorities should be, they can be a useful tool. Others take a looser approach. Whichever method is adopted, a committee should be able to justify how and why a decision has been taken to include certain issues and not others.

Scrutiny members should accept that shortlisting can be difficult; scrutiny committees have finite resources and deciding how these are best allocated is tough. They should understand that, if work programming is robust and effective, there might well be issues that they want to look at that nonetheless are not selected.

**more definitive system for work topic selection for future years.**

**Carrying out work**

Selected topics can be scrutinised in several ways, including:

- As a single item on a committee agenda
- At a single meeting
- At a task and finish group of two or three meetings
- Via a longer term task and finish review
- By establishing a standing panel

**Evidence sessions**

Good preparation is a vital part of conducting effective evidence sessions. Members should have a clear idea of what the committee hopes to get out of each session and appreciate that success will depend on their ability to work together on the day. Chairs play a vital role in leading discussions on objective-setting and ensuring all members are aware of the specific role each will play during the evidence session.

Recommendations should be evidence-based and SMART, i.e. specific, measurable, achievable, relevant and timed. Where appropriate, committees may wish to consider sharing them in draft with interested parties. Committees should bear in mind that often six to eight recommendations are sufficient to enable the authority to focus its response, although there may be specific circumstances in which more might be appropriate.

At Blackpool a wide variety of ways of scrutiny are undertaken dependent on the subject matter.

The Chairs training held in Jun 2019 covered the role of Chairs as a leader of scrutiny.

Does the information submitted include any exempt information?

No

**7.0 List of Appendices:**

7.1 Appendix 4(a) Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities.

**8.0 Legal considerations:**

8.1 The new guidance is statutory guidance. Scrutiny is a statutory function in any authority operating an Executive decision making structure.

**9.0 Human resources considerations:**

9.1 None.

**10.0 Equalities considerations:**

10.1 None.

**11.0 Financial considerations:**

11.1 Consideration must be given to the level of resource available to support an increase in scrutiny work.

**12.0 Risk management considerations:**

12.1 The effectiveness, or lack thereof of scrutiny, is often considered by external bodies such as regulators and inspectors, and highlighted in public reports, including best value inspection reports. Failures in scrutiny can therefore help to create a negative public image of the work of an authority as a whole.

**13.0 Ethical considerations:**

13.1 None.

**14.0 Internal/external consultation undertaken:**

14.1 None.

**15.0 Background papers:**

15.1 None.