

Taking scrutiny seriously

Parity of esteem between scrutiny and the executive:
a short guide for local government Cabinet members and senior officers

governance **reflection** plan **con**
scrutiny intervention **function**

Taking scrutiny seriously

**Parity of esteem between scrutiny
and the executive:**

a short guide for local government

Cabinet members and senior officers

structure overview action authority
strategic issues decision-making

Who should read and act on this document?

We see the primary audience for this document being:

- The “golden triangle” of senior statutory officers. These individuals have particular duties towards a council’s governance framework alongside their wider leadership responsibilities;
- Council leaders and other Cabinet members. Political leadership is crucial to effective scrutiny. Commitments to supporting the scrutiny function and a recognition of the political dynamic within which it operates, have to come from the top.

The Centre for Public Scrutiny (CfPS) is a national centre of expertise on governance and scrutiny. We passionately believe that better governance and scrutiny leads to more effective decision-making, reduced risk and ultimately improved outcomes. Our work spans corporate decisions impacting on the public, to how tax payers’ money is spent. We focus on behaviours and culture, as well as design and delivery.

To find out more about the range of support that is available to councils visit www.cfps.org.uk

To find out more or to arrange an initial conversation about how the scrutiny self-evaluation framework or the Scrutiny Improvement Review could help your council please email info@cfps.org.uk or call 020 7543 5627.

INTRODUCTION

Overview and scrutiny has now been a feature of local government in England for 20 years. But there are still mixed views about its values and effectiveness. Scrutiny should be – and is, in many places – a strategic function of the authority. It should be central to the organisation’s corporate governance, a crucial cog in the decision-making machine. Most importantly, it should provide councillors not in decision-making roles with the opportunity to publicly hold to account Cabinet – and, beyond the council, to investigate and inquire into issues of interest and relevance to local people.

In some places, scrutiny is not living up to this ambition. It is all too easy to place the burden for tackling this challenge – for improving scrutiny – onto scrutiny councillors and the officers who support them. However, the reality is different. Fundamentally, success in scrutiny hinges on the commitment of those in leadership positions. It is about the mindset, attitudes and values of those in decision-making positions – about the council’s political and organisational culture.

This guide is about providing you – as a senior statutory officer or member of Cabinet – with the tools you need to improve scrutiny. You don’t want scrutiny to fail – but sometimes it can be difficult to understand the way that the power imbalance between scrutiny and the executive impacts on its effectiveness, and the number of levers that are in your control to make things better.

In May 2019 the Government published statutory guidance on overview and scrutiny, which this paper draws upon. In June 2019 the Centre for Public Scrutiny (CfPS) published the latest edition of the “Good scrutiny guide”, which goes into more detail on the guidance’s themes. A key component of the guidance was the importance of culture to the success of scrutiny. Without an open, transparent and accountable culture within a council, scrutiny will struggle. This paper outlines what this means in practice, and how those in decision-making positions can take active steps to promoting this culture. We carried out a comprehensive survey of scrutiny councillors and practitioners across England and Wales in late 2019 which gave us particular insight into these and related issues – we have used this insight to inform our thinking in this paper.

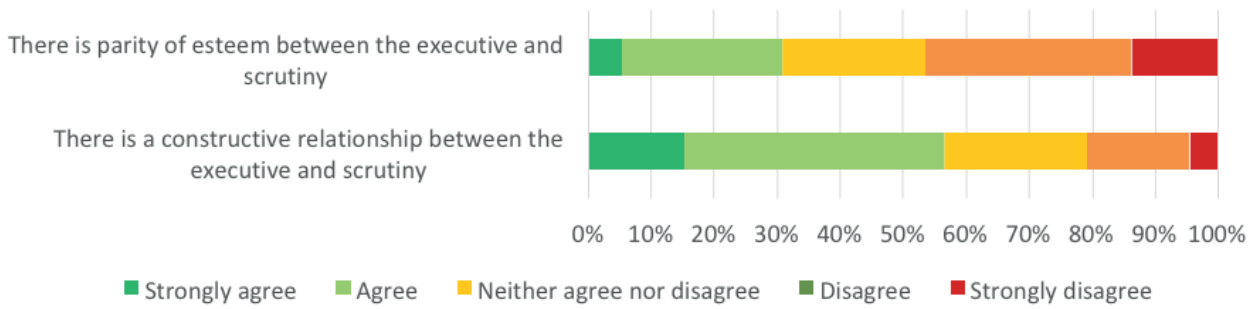
We have produced more information on political culture earlier this year, which can be found at www.cfps.org.uk

Parity of esteem

“Parity of esteem” means that the scrutiny function of a council deserves the same respect, and has the same importance in the governance system, as executive, decision-making activities. Requests from scrutiny and attempts by scrutiny to engage with, and recommend changes to, policies, plans and activities should be treated with the same respect and consideration as if they came from a Cabinet member.

The idea of parity of esteem is what underpins a positive culture of scrutiny in a local authority. Scrutiny is a strategic function of the council, and a critical part of a strong local governance framework.

To what extent do you agree or disagree with the following statements about culture and role?



In our survey of scrutiny councillors and practitioners, we asked about the extent to which people agreed that there was a parity of esteem between the executive and scrutiny, and whether a constructive relationship between scrutiny and the executive exists. As you will see from the results above, while constructive relationships appear to be common – but not widespread – it is on parity of esteem where worries and concerns are clear.

THINGS TO THINK ABOUT – AND ACT ON

Step 1: reflection

Listening to scrutineers' views

Scrutiny councillors and the officers who support them are likely to have thoughts about how you can work together to improve things.

In many councils, scrutiny's relationship with the executive feels transactional – it is about requesting reports and information and securing responses to recommendations. If scrutiny and the executive don't take the time periodically to step back and think about the overall purpose of scrutiny, small misunderstandings and instances of friction can build up into something more.

Actively listening to scrutiny councillors (and to the officers who support them) has to be an important part of this.

Reflecting on how you talk about scrutiny in your authority

Many leaders and other senior decision-makers “talk the talk” on scrutiny. It is easy to talk in the abstract about scrutiny and wanting to make it work – it's more difficult to take concerted, meaningful action. Both words and actions from leaders have a significant effect on how those elsewhere in the organisation engage with scrutiny.

It is too easy for inadvertent action on either scrutiny's part or the executive's part to have a significant, negative effect on how scrutiny works.

Scrutiny can involve a culture clash – what can sometimes be poorly directed attempts to oversee or challenge executive activity can come up against a corporate sense of singular direction and purpose. Under these circumstances it is easy to reach a culturally-driven conclusion that the problem lies with scrutiny. But an overly executive-minded council may also need to challenge its prevailing culture.

The recently published statutory scrutiny guidance focuses heavily on culture, recognising that it is the most important factor in scrutiny working properly.

Focusing on the barriers?

“We want scrutiny to work, but...”

- Members are too political
- Scrutiny looks at the wrong issues, in the wrong way
- Scrutiny's recommendations are unrealistic
- Members don't understand the issues properly / don't read their papers.

It is easy to push the onus on improving scrutiny onto scrutiny councillors and the officers who support them. In truth, tackling the kinds of issues above – common criticisms of scrutiny – is something that the executive also needs to take on. Improving scrutiny is about improving corporate governance more generally – it is a whole council affair. A more positive culture around scrutiny is about recognising this sense of common endeavour.

It is common for councils to focus on “managing” scrutiny – that is, seeing it as an unpredictable risk factor when it comes to council decision-making and governance, and working accordingly. This involves a defensive approach to scrutiny – preparing reports and engagement that anticipates, and seeks to mitigate, problems further down the line. “Taking things through scrutiny” is seen as a necessary, but unproductive, gauntlet through which to run – an annoying part of the process and one that does not seem especially useful.

Sometimes scrutiny can be ineffective because relationships have broken down, or are in a poor state. From the perspective of senior officers and members, scrutiny under these conditions may feel irrelevant, tinkering at the edges of things and not engaging in matters of critical local importance. Often this happens because of long-term disengagement from “backbench” councillors, which itself derives from an inability for scrutiny’s recommendations to hit home, an inability to secure information from the council and others in a timely manner, and the lack of an ability to have frank, candid conversations about things like performance problems.

The responsibility for addressing these matters rests on the executive just as much as on scrutiny councillors. The start of the process is in having a conversation about the fundamental purpose of scrutiny.

Thinking about scrutiny as a key strategic function of the council

Councils have a number of strategic functions which usually sit at the corporate centre of the institution. The size of this “corporate core” has, in many cases, reduced significantly in the past decade. It may include functions like audit, corporate policy, corporate performance, communications and legal services.

Scrutiny can and should form part of this corporate core. Scrutiny can bring additional capacity to help councils to understand and address complex problems. It can also provide assurance to a council’s leadership; members’ unique perspective and insights can help to bring constructive challenge especially on contentious issues.

But scrutiny cannot carry out this role effectively unless the support is there, and until there is agreement and a common understanding between scrutiny and the executive about what that work will look like in practice – what scrutiny’s practical role is. The next section expands on this critical point.

Step 2: action

Working together to take action

Improving scrutiny need not be difficult or complex. It is generally a matter of dialogue and conversation.

The recently published statutory guidance on scrutiny, produced by MHCLG in May 2019, provides a useful basis for dialogue around scrutiny’s role. Responses to the guidance should not be about taking the guidance to a scrutiny committee to be noted, or making some minor cosmetic adjustment. It should provide a vital opportunity – where necessary – for a more fundamental reset of relationships.

There are a few things which we think can make a difference, and which require executive-side leadership to have an effect.

- Setting out a clear role for scrutiny – a positive vision of what scrutiny is here to do, which might be used to focus its role;
- Developing an executive-scrutiny protocol – which can help to anchor the relationship on a common set of expectations;

- Put together a regular information digest for scrutiny – developed to align with scrutiny’s role, and used to bring focus and direction to the work programme by giving members an accurate and holistic sense of how local people experience services;
- Think about the visibility of scrutiny to the wider authority;
- Put in place (proportionate, and sustainable) resources to support scrutiny on an ongoing basis.

More insight on these and other improvement measures can be found in CfPS’s “Good scrutiny guide”, our scrutiny self-evaluation framework and in our offer to independently review scrutiny (the “Scrutiny Improvement Review”, or SIR).

Setting out a role for scrutiny

Having a positive vision of what scrutiny might achieve might help to understand how it could work differently. We think that the executive and scrutiny working together to articulate a role for scrutiny – something that goes beyond just saying that scrutiny is here to “hold the executive to account” – could be productive.

For these purposes scrutiny’s role could be:

- To assist the council to understand and act on the big strategic risks it faces
- To assist the council to better understand the views and concerns of local people
- To support the proportionate and productive review of performance and finance information
- To assist in the development of major, strategic policies.

Scrutiny’s role needs to be different from council to council. It will depend on the council’s priorities, the challenges faced by the local area, members’ own interests and other local factors.

Scrutiny’s role has to be understood by scrutiny councillors themselves, but also by the executive. Ideally, scrutiny’s role will be chosen to engage meaningfully with where a niche or gap exists that it can usefully fill.

Agreeing a clear role for scrutiny is about focusing and directing limited resources to maximise scrutiny’s effectiveness. We recognise the tension here between this and ensuring that scrutiny retains an overarching role in looking at all matters which affect “the area and the area’s inhabitants”, as set out in legislation. It would not be appropriate to constrain scrutiny – but focus is about maintaining a watching brief over services and then, where a matter arises which might be particularly relevant to scrutiny’s role, it can be escalated. We expand on this in more detail below.

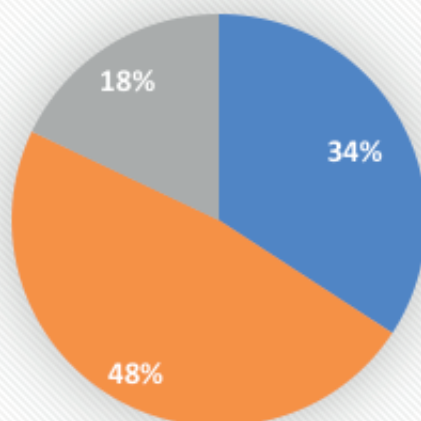
An executive scrutiny protocol?

The statutory scrutiny guidance suggests that councils agree a protocol between the executive and scrutiny to set out how relationships will work.

This is not about identifying a generic protocol and applying it to your local situation; such efforts will probably not yield results. In our experience the value in protocols between scrutiny and the executive lies in the frank and candid conversations that need to precede them, rather than the end result. This conversation can help mutual objectives to be established – they can help in the refinement of scrutiny’s role discussed above, and in agreement over things like information access, discussed below.

This type of protocol provides a key mechanism for addressing the kind of cultural concerns we mentioned in the sections above.

Does your council have an executive/ scrutiny protocol in place?



■ Yes ■ No ■ No, but we are planning one

Most councils do not have a protocol like this in place, although some are planning them. The sizeable number of councils where no such plans are in place is concerning.

An “information digest” for members?

Something else that the guidance suggests is that an information digest be prepared for scrutiny councillors.

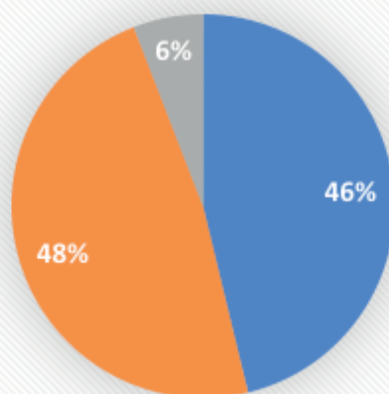
Scrutiny councillors have significant information access rights, which go well beyond the Freedom of Information (FOI) rights of ordinary citizens. But it is clearly not appropriate for members to embark on poorly informed fishing expeditions. It is a poor use of resources for them to receive frequent, generalised updates on council business, particularly at committee.

The idea of an information digest exists to provide part of the solution to this problem. Members would – based on their agreed role – along with officers agree a set of frequently produced management papers which, taken together, would give them a reasonably accurate and holistic sense of services across the area (those delivered by the council and by others). This might, for example, include:

- Regularly produced performance data (monthly, where available);
- Similar financial information including audit reports where relevant;
- Risk registers;
- Collations of corporate complaints information;
- The schedule of key decisions, including background papers relating to those decisions;
- Project milestones and pipeline information for key projects produced by the council’s Principal Monitoring Officer, if it has one.

Taken together, this information can give councillors information accurate enough to determine what, if any issues, they might need to delve into more deeply. Circulating this information in a digest has two purposes – it frees up time in committee which would otherwise be used to take updates on these matters, and it means that this committee time can be focused on issues that really matter.

Does your council have arrangements in place for sharing key sources of information about performance etc with councillors “outside” committee (e.g. an information digest)?



■ Yes ■ No ■ No, but we are planning one

Just under half of councils have such a digest in place. Given the critical importance to effective information sharing with scrutiny, acting on this has to be a priority.

More visibility for scrutiny and the work of members generally?

It's a fact of life that many officers – even senior ones – have limited regular engagement with members. At a more junior level, engagement may well be extremely sporadic and when it does happen may relate to casework issues.

This has led, in some councils, to a situation where members' roles and motivations are misunderstood. This tracks back to our comments in the previous section about reflection on how scrutiny is discussed in the authority.

More visibility for members generally, and for scrutiny members in particular, could provide a better way. This might include measures such as:

- More regular member briefings on matters of local interest and priority, away from formal committees (used in concert with information digests);
- The assignment of individual scrutiny councillors as “rapporteurs” to follow the work of individual council departments; councils might wish to revive the once-common practice of having departmental link officers to develop and maintain a more productive working relationship with these councillors;

- Organisational development to take account of the need to explain the work and role of scrutiny to the rest of the council – and to partners. Tensions and difficulties, and misunderstandings, will often rest of a lack of knowledge – and the more that scrutiny, as a function, is visible (and is seen to be both visible and valued) the more effective it is likely to be.

Resourcing scrutiny?

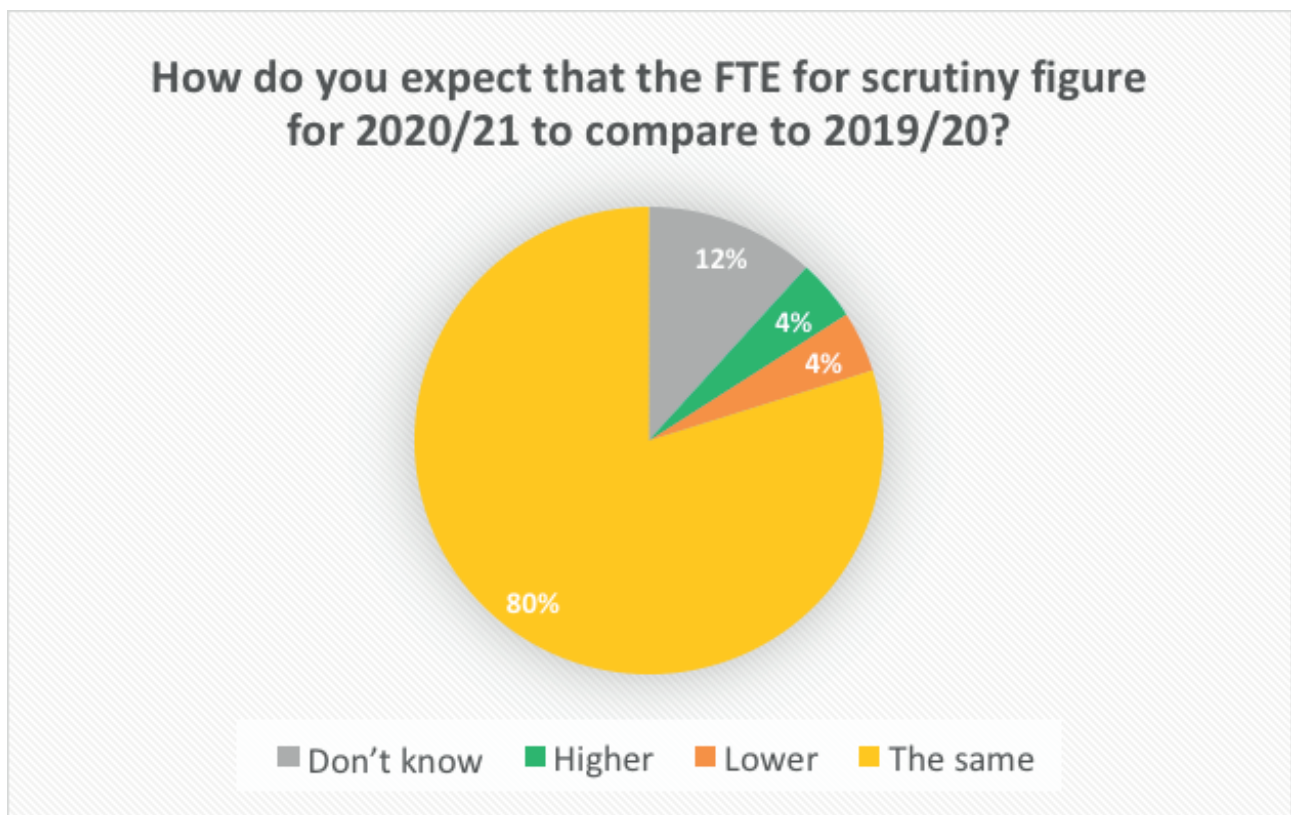
In many councils, scrutiny no longer has a dedicated officer resource.

CfPS continues to argue that a dedicated officer resource is critical for successful scrutiny, rather than other models of support.

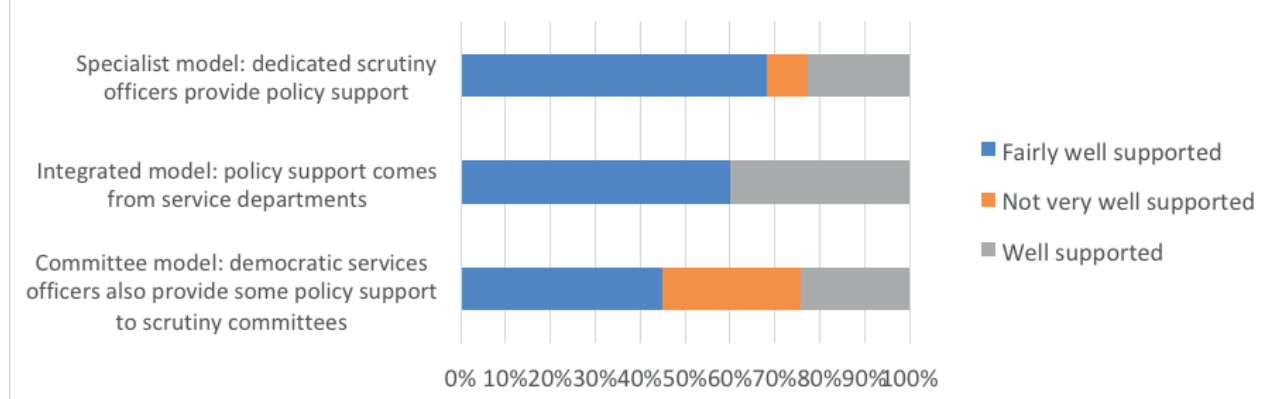
The measures set out above are about refining scrutiny’s role, ensuring that the executive is making a commitment to it as relevant and valuable. But even within that renewed focus, there’s a need for professional officers to help to support members.

Anecdotally, we have found in our support to scrutiny and governance across councils in England and Wales, that reducing resources for scrutiny paradoxically serves to increase the resource burden on the council. This is because members’ policy queries tend to then go direct to senior officers who have to expend time and effort in dealing with them; requests for reports and information are expressed more expansively and with less reference to matters which might add value, further limiting scrutiny’s impact while increasing workload for officers in service departments.

This may not be the same everywhere – but it is a possibility that deserves investigation and it tends to be supported (although not strongly) by data collected through the 2019 CfPS Annual Survey of Scrutiny in Local Government.



If you are the statutory scrutiny officer how do you feel about how well you are supported to carry out your role?



Stability is the theme for scrutiny’s overall resourcing in the coming year, but this does hide a significant year on year reduction in support from 2010 onwards. The extent to which officers in the crucial statutory scrutiny role feel supported is also an issue – with concerns particularly arising for those councils which have chosen to resource scrutiny through a combined democratic services team.

What you can do to act

If you are reading this paper as a senior, statutory officer – part of the “golden triangle” - there are a range of things that you will be able to do now to foster and develop the kind of political and organisational culture in your council which will be more supportive of scrutiny. These include:

- Arranging time to speak to scrutiny chairs and the officers who support them about the support that they feel they need in order to carry out their work effectively;
- Supporting these people to have conversations with each other and with you and your colleagues about scrutiny’s overall role and focus;
- Working together to set out expectations and content for an executive-scrutiny protocol;
- Being proactive about information sharing – putting in the time to reflect on the information held by the authority and how it can be shared with scrutiny more effectively, and in a more timely way;
- Acting to put in place the right resource to ensure that scrutiny can work properly.

If you are a Leader or a Cabinet member, your role is likely to lie in thinking about how you talk to and about scrutiny, and how you engage with it on a practical basis. You can participate in and drive the conversations mentioned above. You can also use your political capital to demonstrate how you are prepared, as someone in a leadership position, to take scrutiny seriously.

CfPS has a couple of tools which can help you in thinking about scrutiny, and how you can work to support it. These include:

- The scrutiny self-evaluation framework. This is a process which you and (with your support) scrutiny practitioners themselves can use to identify where improvements might be necessary;
- The Scrutiny Improvement Review (SIR). This is something that CfPS can provide. A CfPS expert can carry out a short, focused review of scrutiny in your authority and make suggestions for change. Depending on your council, part or all of this work may be funded by the Local Government Association.



77 Mansell Street London E1 8AN
telephone **020 7543 5627** email **info@cfps.org.uk** twitter **@cfpscrutiny**

www.cfps.org.uk

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