

Taking on the housing challenge

A scrutiny councillor's guide

affordable residents **policy** plan
scrutiny management **process**
development recommend **review**

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residents investigate homelessness
demand assessing **regeneration**
engagement discovering systems

EXECUTIVE SUMMARY

This guide is intended to provide practical advice for scrutiny committees and task and finish groups working on housing issues. It is also intended to show cabinet members, council officers and others in the world of housing policy and management that scrutiny councillors can and should help to tackle the housing crisis. Our aim is that this guide will start a conversation rather than provide an off-the-shelf checklist.

There are five stages that, broadly speaking, reflect the process that scrutiny councillors will use to conduct reviews. These are based on the principles of “design thinking”, which places the needs of “users” (for us, local people) at the centre of how a product or service is designed. This is about more than thinking in the abstract about people and their needs – it is about involving and engaging them and, where relevant and appropriate, involving them actively in helping to design new systems.

The complexity of policy around housing makes design thinking a particularly useful tool for scrutiny. It provides a way to remind us of the centrality of people’s needs when the temptation might be to focus scrutiny on the “structures” of “housing delivery” – thinking of different ways to review the work of the council, developers, housing associations, and so on – without recognising that they are all connecting.

The five stages are:

- **Discovering.** Getting a broad sense of the issues to understand where it might be best to intervene, and what would be best to scrutinise. This includes:
 - Discovering and understanding residents’ needs and concerns;
 - Discovering and understanding national policy. In this paper, we look at policy in several areas – tenant engagement in social housing, tenant engagement in private housing, the environment in which regeneration and major planning decisions happen, and policy around homelessness.
- **Prioritising.** Understanding what specific issues need to be investigated, and why. This is also about understanding the issues as local people understand them, and drawing those people into the discussion. Co-option (installing people on council panels) commissioning (tasking people or groups with doing work on scrutiny’s behalf) and co-learning (working alongside others to find solutions) are good ways to do this;
- **Investigating.** Carrying out the scrutiny work itself. This includes the importance of working in public – both to holding decision-makers to account and to consider, and find solutions to, difficult issues;
- **Recommending.** Proposing solutions to cabinet and other policy-makers;
- **Reviewing.** Reflecting on the process, considering what has worked well and less well, and amending your approach for the future as necessary.

There is widespread agreement that England faces a housing crisis. As Shelter argue, there is a serious shortage of affordable homes and the effects of this can be seen in; the unaffordability of home ownership particularly for young people; high housing costs for those with mortgages; increased use of private rented accommodation with its associated high costs, instability and poor conditions; and rising levels of homelessness.

At the same time there is a crisis of confidence among those in social rented housing. Many face issues of poor quality, low security and, as the tragedy at Grenfell has shown, serious safety risks. More than this, the ability of social housing tenants to get their voices heard and responded to has been called into question.

Scrutiny councillors can make a real difference to housing issues and there has never been a more crucial time for them to get involved. While the housing crisis is national, solutions will need to be found locally. Local government has a crucial role to play if the local housing system is to work for residents and this means that local government scrutiny also has a crucial role to play. The purpose of the discovery stage is to get a broad picture of the local housing system in order to be in a good position to prioritise scrutiny work.

The process of “discovery” should be considered as continual – scrutiny practitioners need to hold a watching brief over a range of issues, of which housing is only one.

There are two elements to the discovery process – understanding residents’ needs and concerns, and understanding the national and local policy context.

The housing crisis is experienced differently in different areas. It is important, therefore, to understand what the most pressing concerns are in a given area as they will differ. As scrutiny resources are limited it is doubly important to ensure that the focus is on the right things.

Scrutiny councillors should be finding out about:

- Residents’ needs and concerns
- National and local policies
- Existing assessments

Discovering residents’ needs and concerns

Taking the perspective of residents will help scrutiny to identify issues of local public concern to ensure that these are not missed. A resident perspective will also help scrutiny to take a holistic, system wide view, drawing together a disparate range of providers, including those in the private sector. This will allow scrutiny councillors bring issues to wider attention and also ensure that in-depth scrutiny work is focussing on the right things. It is of course important to recognise that there is not a single resident perspective – residents are individuals and their aspirations and needs will not always coincide. Trying to tease these issues out is an important part of the process.

In the housing context there are four ways that scrutiny councillors can engage with residents and with their views:

- Consultation – seek residents’ views on a topic either by drawing on previous consultation or running new activities
- Co-option – inviting residents to sit on committees or task and finish groups either as voting or non-voting members

- Commissioning – inviting a residents’ organisation to undertake a piece of work independently and report their findings back into the scrutiny process
- Co-learning – sharing training and other events to build mutual understanding and good practice with residents in scrutiny roles

Scrutiny councillors will have their own experience to draw on, whether personal, through contact with constituents or through casework. This experience is important and can provide valuable insights and anecdotes to illustrate specific issues. The knowledge and experience of councillors is made much more powerful when combined with the first hand views of residents.

The resident perspective can be brought into every stage of the scrutiny process. It can help scrutiny councillors to:

- Discover and understand housing issues from the perspective of those affected by them so that scrutiny work is conducted with empathy
- Prioritise the issues that matter most to residents
- Better investigate issues by providing evidence, suggesting new questions and offering a way to test the evidence from decision makers
- Produce better recommendations through user testing
- Evaluate the outcomes of scrutiny work from the viewpoint of those affected

Which residents?

The first step to getting a residents’ perspective is thinking about which residents to engage with. This depends on which aspect of housing is being considered :

Social rented housing

- Tenants involved through the structures set up by the landlord
- The representatives of independently organised tenants groups
- The wider tenant body
- Future tenants - those on the waiting list

Private rented housing:

- Private renter groups - these are not common but do exist in some areas - the generation rent website has details
- Those making complaints to the local authority
- The wider body of private renters

Affordable home ownership:

- Homeowners struggling financially - via money advice services such as Citizens Advice
- Those struggling to get on the housing ladder

Housing for vulnerable people:

- People living in sheltered or supported housing
- People in temporary accommodation
- People living rough

Understanding a residents' perspective means publicly amplifying both the views of residents and supporting the right of residents to speak for themselves. This does not mean always agreeing with resident views but it does mean ensuring that they are reflected.

Discovery: What to find out from residents

Questions may depend on the topic being considered. However, it is always worth considering asking more open questions where possible in order to get a rich picture of the resident perspective. So, for example, borrowing from the empathy mapping technique used in design thinking, scrutiny might seek to understand for a particular topic:

- What are residents thinking about this?
- What do residents feel about this?
- What do residents see happening around them?
- What do residents hear from other residents?
- What are residents trying to do?
- What are the barriers to residents achieving what they want?
- What are their biggest hopes for this?

Discovering national policy

At a national level, government responsibility for housing sits with the Ministry of Housing, Communities and Local Government (until recently the Department for Communities and Local Government).

Governments over recent years have supported the desirability of home ownership and the current government has sought to reassert this.

In February 2017, the Government published its white paper 'Fixing the Broken Housing Market'. This sets out the Government's view that the number of new homes being built needs to be increased from an average of 160,000 a year to around 220,000 a year. This increase in supply is necessary to compensate for years of under supply and the demands of an increasing population.

According to the Government: "The problem is threefold: not enough local authorities planning for the homes they need; house building that is simply too slow; and a construction industry that is too reliant on a small number of big players".

In response, the Government's strategy is:

- to plan for the right homes in the right places
- to build homes faster
- to diversify the housing market

Recently the Government has consulted on a range of measures to help increase the supply of housing in its consultation paper; 'Planning for the right homes in the right places'. Following this the Ministry is seeking to introduce a standard approach to assessing local housing need in order to make the assessment process 'simpler, quicker, and more transparent' and to speed up the local planning process as a result.

Beyond home ownership and building new homes, the Government will also be focussing on social housing - particularly in the context of the Grenfell Tower tragedy. A social housing Green Paper was published in August 2018, a central plank of which was to empower residents and strengthen the regulator.

National policy is reflected in how local housing markets and systems operate. The “discovery” phase of a scrutiny review will need to be framed by an understanding of this market and of the partnerships that comprise it. This understanding itself needs to be based on an acknowledgment that it is a complex system, which can be influenced but not easily “directed” or controlled.

We think that there are four principal areas that deserve scrutiny and reflection on housing. For each of these, we have provided a general policy overview, a sense of scrutiny’s role and direction in respect of that policy area, and some further information. All of this will help you – whether you are a member or an officer – to direct the work you do as part of the discovery process.

1. Tenant engagement in the social rented sector.

Overview

Tenants’ and residents’ associations have played an important role in holding stock holders to account for many years. Since many councils in England transferred their housing stock to other bodies – arm’s length management organisations (ALMOs) or housing associations – the situation has become slightly more complex.

Now, social housing is provided in one of three ways –

- By councils directly. Councils remain as the principal holder of council stock in some areas, although this is not especially common. A more hands-on approach by the authority could encourage a similarly operational focus for scrutiny – which can present a poor use of time;
- By ALMOs. . In some areas, ALMOs take the form of Tenant Management Organisations, with tenants on the Board and in active control of the stock. Because ALMOs were developed as a way to deliver the Decent Homes Programme (which ended in 2010) many councils and ALMOs are considering what the future of stock management should be – a discussion in which scrutiny can play a central role;
- By housing associations. In many areas council stock was transferred to housing associations. Many housing associations, seeking to increase their financial sustainability, are looking at ways to develop land they own and to become more entrepreneurial in the way that they act. This has been seen as producing a degree of tension with their mission as social landlords.

The establishment of tenant scrutiny as part of a system called “co-regulation” dates back to the late 2000s. Landlords are not obliged to establish tenant scrutiny arrangements, but many have. Tenant scrutiny panels are made up of local tenants, and supported by the relevant housing association or landlord. In the past decade they have succeeded in bringing robust scrutiny to bear on social landlords. The Chartered Institute of Housing has carried out significant, sustained research on both tenant scrutiny, and co-regulation in more general.

Landlords may choose not to establish tenant scrutiny arrangements, but they will invariably put in place some mechanism for tenant involvement. At a minimum, there will be engagement and involvement plans, and a commitment to consult. Usually, this will be bolstered (if not by a tenant scrutiny panel) by a “tenant council” or similar structure – often put in place as a sounding board for consultations. Often there will be umbrella, representative organisations which act as the voice of tenants across a whole locality.

It is worth noting that the number of tenants on housing association boards has been reducing, because of an increased emphasis on a skills based approach to recruitment. Stock transfer boards will, however, have tenants as members, usually in non-executive roles. Building relationships with these tenants can be a way of ensuring a good understanding of current issues and concerns in these socially rented homes - even though they are at arm's length from the council.

It is also worth noting that councillors on housing association boards are required to act on behalf of that board at all times. This is something for scrutiny to be aware of when talking to other councillors.

When working with residents to support tenant led scrutiny it's worth referring the work done by TPAS and, in particular, their report 'The Changing World of Scrutiny'. This report contains useful case studies and key principles for tenant led scrutiny.

TPAS Key principles of Tenant Led Scrutiny

- There is a good relationship with senior management and the Council / Board and there is clarity about the role of scrutiny within the organisation and its governance arrangements
- Work with the overall tenant engagement framework, thus holding the organisation to account through collaborative and supportive yet independent tenant led scrutiny
- Constructively challenge on areas for improvements, using available and commissioned performance information
- Identify what the organisation does well and celebrate this success
- Drive business performance with a positive organisational approach to listening and acting on constructive challenge
- Produce clearly identified and measured outcomes and impacts. (e.g. improvements to services, better value for money, increased transparency)
- Be valued (by Council or Board) as tenant led scrutiny provides research insight and feedback direct from customers they may not get to hear
- Be a key part of the business improvement process, and part of the self-assessment and value for money framework
- Make sure that tenants have an influencing role that is proactive, evidenced based and leads to positive business improvements
- Support the overall organisational approach to tenant engagement and empowerment

The Changing World of Scrutiny, Tenant Participation and Advisory Service (TPAS) 2017

Scrutiny's role and direction

Resident-led scrutiny will probably operate in slightly different ways depending on who holds the housing stock. This is mainly because the priorities and drivers of different kinds of landlords may demand different forms of engagement – and the way that the mix of landlords operating locally influences how scrutiny of those landlords might operate. The nature of tenant scrutiny will differ depending on the mix of tenures (whether there are areas where leasehold ownership of social stock is more common), and the size and spread of estates (in larger urban areas, larger estates are naturally more common).

Council scrutiny, led by elected members, needs to support whatever tenant and resident-led scrutiny arrangements exist. Council scrutiny can take two steps to do this:

- To understand local tenant scrutiny arrangements and to work with tenant scrutineers to see how issues of mutual interest can be looked at. This could be a range of issues – social care and environmental services, for example.
- To review and understand how landlords are working to engage tenants directly themselves, usually through tenant management strategies.

Whatever role council scrutiny performs here – and this has more general application – there will be an inevitable temptation to focus on operational issues. There is a logic in bringing council scrutiny to bear on issues like this – but to explore the overall approach that a landlord might take on the issue rather than (for example) exploring the detailed schedule of maintenance on a specific estate.

Further information to assist with discovery, including statutory responsibilities

- Housing and Regeneration Act 2008
- “Stories in tenant scrutiny and co-regulation” (CfPS / SEP, 2012) <http://www.tenantadvisor.net/wp-content/uploads/2012/09/Case-Studies-in-Tenant-Scrutiny.pdf>
- “Top tips for tenants: holding your landlord to account through scrutiny” (CfPS / SEP, 2012) <http://www.tenantadvisor.net/wp-content/uploads/2012/09/Top-Tips-for-Tenants-in-Scrutiny.pdf>
- “Tenant scrutiny: now and in the future” (CIH, 2012) <http://www.cih.org/resources/PDF/Policy%20free%20download%20pdfs/Tenant%20Scrutiny%20-%208-Nov-2011-lowres.pdf>
- “New approaches to tenant scrutiny” (CIH, 2014) <http://www.cih.org/resources/PDF/Policy%20free%20download%20pdfs/New%20Approaches%20to%20tenant%20scrutiny.pdf>
- “Housing associations and the right to buy: government response to select committee report” (DCLG, 2017) <https://www.gov.uk/government/publications/housing-associations-and-the-right-to-buy-government-response-to-the-select-committee-report>
- “Regulatory framework requirements” (HCA, 2017) <https://www.gov.uk/government/collections/regulatory-framework-requirements>

2. Engagement and involvement in the private rented market.

Overview

Scrutiny on issues relating to the private rental market is far more of a challenge. An atomised, transient and often vulnerable tenant community, and landlords who may resist council oversight, combine to create a difficult environment to exert influence.

Councils have tried to develop registers of private landlords, and have attempted to use their enforcement powers to manage the behaviour of “rogue landlords”. Some councils have also brought in (under the Housing Act 2004) “selective licensing” schemes, which may apply to part of or all of a local authority’s area. A scheme must be brought in in response to local need, and since 2015 the Secretary of State’s approval must be given for a scheme to be put in place. Under these schemes licensing applies to individual properties, rather than landlords.

It is worth noting two things:

- Rogue landlords (the targets of licensing and registers) are in the minority overall, but in certain areas they may have a disproportionate influence – they may own a large number of properties, or a small properties whose tenants’ complex needs place particular demands on local services;
- The “spread” of landlords’ holdings is likely to vary significantly. In some areas, the private rented sector might be very small, and/or made up of landlords who may only own one property.

In others, the sector may be a dominant part of the local housing landscape, and/or made up of landlords with many holdings – whether they operate those holdings as essentially private holdings, or through more conventional company structures.

With housing demand rising (especially in cities), the pressure on the private rented sector means that opportunities are there for unscrupulous individuals to take advantage of the situation, and councils are having to put in place more robust mechanisms to manage this part of the market.

Landlord accreditation is seen as one technique to drive up standards. Various accreditation schemes exist, but they are not compulsory. The National Landlords' Association operates a scheme for its members; some regional and local schemes also exist (for example, a London-wide register operates, in partnership with London boroughs). Different schemes have different requirements.

Councils frequently use their enforcement powers to control “rogue landlords”. The basis for the operation of inspection of private rented property is provided in the Housing Act 2004. This introduces the Housing Health and Safety Rating System. The HHSRS is described by Government as,

“a risk-based evaluation tool to help local authorities identify and protect against potential risks and hazards to health and safety from any deficiencies identified in dwellings”

The hazard assessment system in the HHSRS measures safety in a number of areas, including:

- That the equipment needed to supply utilities has been installed safely;
- The operation of sanitaryware and drainage;
- Food safety, including provisions for storing and preparing food;
- Ventilation and heating arrangements.

Should a property be found wanting, the local authority carrying out inspection may take enforcement action. This could be the issuing of an improvement notice (failure to comply with which in a given timescale is a criminal offence), making a prohibition order (which, in the case of a serious hazard which cannot be easily remedied, will prohibit the use of a certain part of the property), issuing a “hazard awareness notice”, which is advisory, or the council can carry out emergency remedial action itself.

Recently, additional powers have come onstream to assist – including the launch of a national database of rogue landlords and the availability of banning orders which can prevent such people operating their business. A recent Select Committee report recommended that councils be given the power to seize the property of rogue landlords although it is unclear whether Government proposes to act on this suggestion.

Scrutiny's role and direction

Discovery, in this area, will be about three things.

- Understanding the shape of the private rented sector in the area;
- Understanding the ways that the council and its partners seek to manage and oversee the sector. Scrutiny will need to understand:
 - The nature of liaison with landlords, and with tenants;
 - How enforcement powers are planned and used;
 - How the council works with its partners to meet the various needs of tenants living in property subject to enforcement (the health consequences of living in substandard accommodation, for example);

- Understanding where pressures and challenges exist in the context of wider housing policy. The operation of the private rented sector has implications for the operation of the social rented sector, for the design and delivery of redevelopment plans, for the operation of the planning regime and – at the vulnerable end of the spectrum – for council policy on homelessness.

Scrutiny can potentially be designed to deliver a number of outcomes. Landlords themselves might prove difficult to engage, although scrutiny can play a role in understanding how the council uses enforcement to hold them to account, and how good landlords are supported. Scrutiny can hear and understand the testimony of tenants – either in public or confidentially – to understand how risk can be better understood.

Further information to assist with discovery, including statutory responsibilities

- Housing Act 2004 (including regulations and guidance)
- “Selective licensing for local authorities: a good practice guide” (Shelter, 2006) https://england.shelter.org.uk/__data/assets/pdf_file/0008/57779/Selective_licensing_for_local_authorities.pdf
- “HHSRS: guidance for landlords and property professionals” (DCLG, 2006) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/9425/150940.pdf
- “Selective licensing of private rented housing” (House of Commons Library, 2017) <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN04634>
- “Private rented sector: response to select committee report” (MHCLG, 2018) <https://www.gov.uk/government/publications/private-rented-sector-government-response-to-the-select-committee-report>

3. Development and regeneration.

Overview

The presence of housing targets has been a feature of strategic planning for some time; Government has recently announced plans to set house building targets for local areas and hold to account councils more robustly for whether or not the market meets these targets, by allowing developers to bypass Local Plans in areas which do not build enough homes.

This expected stick will complement the existing carrot for housebuilding that currently exists in the form of the New Homes Bonus. The NHB was introduced by the Coalition Government to provide an incentive to councils to build more homes. The NHB provides a relatively straightforward fiscal stimulus to councils; plans had been mooted to alter its application for 2018/19, but those plans were shelved. NHB is an important income stream for planning authorities.

For the sector, a main challenge is that councils themselves cannot borrow to invest in new homes, making taking action on housing a challenge. This means that council engagement with house developers is particularly important.

Pressure on housing, and housing need, is expressed in different ways in different areas. In rural areas, for example, contention will focus on the release of green belt land for new build. In urban areas, regeneration and the allocation of brownfield sites may be a priority.

Large scale regeneration schemes are often a subject of particular contention. This can be for a number of reasons:

- Fears of gentrification (especially if social housing is a significant feature of the site in question)

- Concerns that regeneration is led by an undue focus on physical infrastructure rather than social fabric (linked to the above)
- Fears of the removal of certain land uses – regeneration
- Worries about developers’ negotiation tactics and worries that they will do a poor deal with the council with regard to s106 agreements or the CIL (see below)
- Worries about densification and massing (which may relate to individual planning applications but have relevance for a wider approach to strategic planning)

Often large scale regeneration will be accompanied by agreements with developers. This might be on the amount of social or affordable housing in a given development, or on the provision of community facilities. The latter will usually be provided for by way of an s106 agreement (under the Town and Country Planning Act) or through the Community Infrastructure Levy, where the Local Plan specifies the particular community needs which are used to make an assessment of the level of CIL levied.

Large scale regeneration may also require that councils co-operate with their neighbours, or with other public bodies. There is a specific “duty to co-operate” under the Localism Act that covers a range of bodies (although not, for example, Local Enterprise Partnerships or utility companies).

Agreements between councils and developers will often be subject to the financial viability of the development. Viability assessments are particularly important in reaching conclusions about the appropriate level of affordable or social housing, and are often the subject of significant local interest and contention.

Scrutiny’s role and direction

Scrutiny has no formal role in the planning system, and it is inappropriate for scrutiny to attempt to look at the merits of individual planning applications. That said, it is legitimate for scrutiny to explore the issues of political contention around the “masterplanning” of major regeneration projects, and the strategic approach to delivering against housing targets.

At the discovery stage, members will want to understand the council’s reliance on the NHB (if it is a planning authority); councillors will also need a sense of the local pressure on land, particularly where the council is constrained by the presence of the green belt (a particular issue in smaller conurbations and those councils for areas surrounding larger cities).

Councillors will also need to understand the right stage at which to bring their skills and expertise to bear on major regeneration projects. Too early and there is little to meaningfully look at – too late and the formal planning process may be underway, making meaningful scrutiny difficult. Scrutiny could be effective in mediating between competing interests (particularly in relation to the “duty to co-operate” in strategic planning) and bringing debate on contentious regeneration issues into a public space. A focus on certain elements of a major scheme – the quality of local engagement, issues of sustainability – may be more effective than a general “review” of such a scheme. Equally, a review of the council’s overall approach to major schemes may be better than an attempt to look at a single scheme in isolation.

Further information to assist with discovery

- “Community infrastructure levy: an overview” (DCLG, 2011) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/6313/1897278.pdf
- “Evaluation of the New Homes Bonus” (DCLG, 2014) <https://www.gov.uk/government/publications/evaluation-of-the-new-homes-bonus>
- “Supporting housing investment: a case study guide” (LGA, 2014)

- “Councillors’ briefing: Local Plan steering group” (Planning Advisory Service, 2015) <https://www.local.gov.uk/pas/pas-support/pas-subscribers/councillor-briefings/councillor-briefing-local-plan-steering-group>
- “Councillors’ briefing: Developer contributions” (Planning Advisory Service, 2015) <https://www.local.gov.uk/pas/find-event/pas-past-events/councillor-briefing-developer-payments-and-community-infrastructure>
- “New Homes Bonus: sharpening the incentive – response to consultation” (DCLG, 2016) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/577904/NHB_Consultation_Response_Doc.pdf
- “A simple guide to strategic planning and the duty to co-operate” (Planning Advisory Service, 2016) <https://www.local.gov.uk/sites/default/files/documents/simple-guide-strategic-pl-557.pdf>
- “LGA housing commission: final report” (LGA, 2016) <https://www.local.gov.uk/lga-housing-commission-final-report>
- “The New Homes Bonus (England)” (Housing of Commons Library, 2017) <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN05724>
- “Councillors’ workbook: planning” (LGA, 2017) <https://www.local.gov.uk/councillors-workbook-planning>
- “Planning positively through partnership” (LGA, 2018) https://www.local.gov.uk/sites/default/files/documents/5.24%20Planning%20positively_v06.pdf
- “Community infrastructure levy: planning practice guidance” (MHCLG, 2018) <https://www.gov.uk/guidance/community-infrastructure-levy>

4. Issues relating to low incomes and homelessness.

Overview

Homelessness is not just about rough sleeping. A large amount of homelessness is less visible, and not recorded – it can take the form of “sofa surfing” or vulnerable people living for extended periods in temporary accommodation.

Councils will usually tackle homelessness by means of a local homelessness strategy. This will aim to bring together the councils’ partners to develop solutions to the issue. Councils have various duties to people homeless or at risk of homelessness, including differing relief duties for those deemed to be in priority need and those not. The new Homelessness Reduction Act introduces a range of new prevention duties for people regardless of their priority need. In brief, the Homelessness Reduction Act introduces –

- a duty to prevent homelessness: taking “reasonable steps to help the applicant to secure that accommodation does not cease to be available”, under section 4. This requires a personalised housing plan to be put in place for people at risk, with the authority being under an obligation to help for 56 days unless the applicant deliberately and unreasonably refuses to co-operate. The prevention duty takes no account of “local connection”;
- a duty to provide relief: taking “reasonable steps to help the applicant to secure that suitable accommodation becomes available”. Where people are homeless, there is a duty to provide a personalised plan – based on priority need, but requiring that action still be taken in every case.

These duties go alongside the original rehousing duty under the Housing Act 1996.

Statutory guidance provides more detail about these duties.

There is disagreement about the likely impact of the Act on homelessness. From the local government sector, and charities, the principal concern is the availability of funding to fulfil the duties. Piloting the measures in the Act, Southwark LBC benefited from £1 million in funding for a year from Government, but felt the need to top this up with £750,000 in local funding. Government has provided an additional £72 million nationally to fund homelessness assistance – the prevailing view is, therefore, that this is inadequate. LGA research in 2017 revealed that councils spend a total of £2 million annually on temporary accommodation for homeless people.

More recently, Government has announced further funding for action on rough sleeping. This more visible form of homelessness is especially challenging for councils to deal with; rough sleepers may have substance misuse and mental health problems which require a careful and sensitive approach.

Scrutiny's role and direction

The high costs of homelessness, and the complexity of meeting the requirements of the duties in the Act, demand that the discovery phase of a scrutiny review properly understands the nature of homelessness and rough sleeping in the area.

The matter may be a pressing challenge for the council even if rough sleeping is negligible. In particular, the requirements for personalised plans for people at risk of homelessness (who are likely to have other, complex needs, and who by definition will be vulnerable) will happen in a way that is very expensive while simultaneously invisible to the general population. For scrutiny, highlighting the experiences of people in a precarious housing position, and bringing together partners to better understand and publicise these needs, can provide a visible way to bring these matters to a wider audience.

Scrutiny could, in a spirit of discovery, use personal testimony to explore the drivers that push and pull people into precarious living arrangements, to understand how the council fulfils its duties. Following through personal experiences also provides a way to understand how partners work together – and can help to identify and deal with gaps in understanding and provision amongst professionals.

Further information to assist with discovery

- “Five key changes in the Homelessness Reduction Act” (Homeless Link, 2017) https://www.homeless.org.uk/sites/default/files/site-attachments/Homelessness%20Reduction%20Act%20Briefing%20Nov%202017_0.pdf
- “Housing, planning and homelessness: moving the conversation on” (LGA, 2018) <https://www.local.gov.uk/moving-the-conversation-on/housing>
- “Homelessness code of guidance for local authorities” (MHCLG, 2018) <https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities>
- Overview of homelessness law and guidance, Shelter Legal website, accessed 10 August 2018 at http://england.shelter.org.uk/legal/homelessness_applications/introduction_to_homelessness

2 PRIORITISE

Once scrutiny councillors understand the broad context in which they are operating, they need to zero in on the right issue – the right focus to make their work really count.

It will make sense to hold initial exploratory conversations informally to prepare and help the committee to plan effectively.

Prioritising: Who to speak to?

In seeking to identify the main local issues of concern, scrutiny should be having a conversation with:

- Relevant cabinet members and lead officers – this may include people beyond just those with direct housing responsibilities
- The chairs and chief executive officers of local housing associations and other housing providers
- Other local partners (for example, in relation to strategic planning, those with whom the council has a statutory duty to co-operate)
- National policy makers and other sector bodies

Thinking about involving local people

This may be the best time to think about how local residents might be more formally involved in the scrutiny work itself through a number of means:

- **Through co-option** – the process by which local people with particular skills or insight can be engaged as a part of the group carrying out the scrutiny work. Co-option allows for resident views to be expressed first hand, for better deliberation and for access to networks and wider contacts. Having residents directly involved will also strengthen the legitimacy of scrutiny work.
- **By commissioning other groups** (such as tenant scrutiny panels) to carry out work on scrutiny's behalf. The benefit of this approach is that it supports residents to address and deal with the issues that affect them. It also builds the confidence and capacity of residents to deal with issues in future. The connection with the scrutiny committee may also help build trust and engagement with local politics and local councillors.
- **Through co-learning** – working in partnership with a range of those involved in this area to discover and learn about the issue under study.

Case Notes: Co-opting residents

Cambridge City Council's Housing Scrutiny Committee has included co-opted council tenant members since 2014. These co-optees are elected by council tenants once every four years and have full voting rights for items relating to the Council's housing. As well as bringing valuable insights to committee debates, the tenant co-optees also provide a link to the City's tenant organisations and will often be asked to help with consultation and engagement activities outside of scrutiny. The committee keeps tenants updated about their work through regular updates in 'Open House'; the tenant newsletter produced by the Council.

Rotherham Metropolitan Borough Council's Improving Places Scrutiny Committee has also co-opted two tenants. These non-voting co-opted members are selected by Rotherfed – the Tenants Federation for Rotherham. They play an important role on the committee and ask questions that the other

members might not have asked. More than this, their presence on the committee shows tenants that they are being taken seriously and that councillors are listening to tenant views. The two tenant members also provide a valuable link between scrutiny and Rotherfed.

Lambeth Council co-opted three tenants onto their inquiry into Resident Involvement. Once a role description had been agreed, three tenants who were already active in the Council's resident engagement arrangements and area forums were invited to take part in the informal task and finish group that undertook the inquiry. The co-opted tenants were 'involved, engaged, knowledgeable, open-minded and constructive' and able to make an important contribution to the work. The councillors really found the involvement of the three tenants to be helpful as it gave them the view from the ground. The closed sessions of the task and finish group were also helpful in allowing free and open dialogue.

Good practice points

- Co-optees can only be as effective as the time and support they are given - ensure they have a full induction into the role and offer training and conference opportunities, alongside other committee members if possible
- Take extra steps to ensure co-opted tenant members feel welcome and involved – the experience of attending formal council meetings may seem alien and strange at first!
- Councillors on the committee also need to be prepared before working with co-optees to ensure they understand the aims and expectations of the role.

Case Notes: Commissioning tenants to do scrutiny work

Rotherham Metropolitan Borough Council have funded and supported tenant led scrutiny work. A housing department contract to provide scrutiny inquiries a year was won by Rotherfed – Rotherham's tenants federation. So far two inquiries have been completed (Appointments, Communications and the Customer Journey for Repairs and Engaging Young Tenants in Rotherham) and a further one is planned (Tackling Anti-Social Behaviour). Details of these reviews can be found on the Rotherfed site. The young tenants involved in their review were able to present their report to the Improving Places Scrutiny Committee who have endorsed the action plan and asked for further reports in future. The discussion of the completed reports at the scrutiny committee has helped publicise the work and improve councillor awareness of tenant issues.

Good practice points

- Scrutiny councillors can actively support tenant scrutiny by inviting tenants to share their reports at scrutiny meetings
- Scrutiny officers can actively support tenant scrutiny by sharing advice and good practice tips with those supporting tenant scrutiny

3 INVESTIGATE

Having identified one or more local issues of concern, the next stage is to actually investigate – carrying out scrutiny itself. Typically this might involve questioning cabinet members and local leaders as part of the formal process of holding them to account, undertaking in depth inquiries or tackling one-off issues.

A lot of the most productive investigation will be carried out in the form of in-depth inquiries. Moving scrutiny out of the formal committee environment will make scrutiny more productive – these kinds of scrutiny inquiries are an opportunity to work holistically, canvass a wide range of opinions and work creatively to find new solutions. An in-depth inquiry will usually involve a small group of councillors being tasked by a scrutiny committee to investigate an issue, reporting back some time later with recommendations.

In-depth inquiries and reviews provide an opportunity to dig into an issue in more detail. Where housing as a subject is complex, involves a wide range of partners and issues, and involves different residents in different ways, the risk is that reviews and inquiries will end up being similar complex – and unwieldy.

Once a scope (or plan) for an inquiry has been decided, members will need to decide on a methodology for the work. In depth inquiries lend themselves particularly well to taking evidence from local people – understanding their needs and aspirations. A particularly productive way of working – especially when thinking about complex local services like the management of social housing and homelessness – can be to think about “user journeys” – looking at a service from the perspective of a person “receiving” that service.

For more strategic reviews – ones which look more generally at policy – a focus on how big strategic decisions affect people on the ground will still be necessary, to reduce the risk of the issue in question seeming intangible and divorced from the lives of residents.

In general, investigations may combine elements of two different approaches – scrutiny that holds decision-makers to account, and scrutiny that supports decision-makers to tackle difficult problems. Together these approaches form the “constructive criticism” that makes scrutiny so effective – an approach which is supportive, but challenging. The best scrutiny will seek to combine both.

Holding local leaders to account

Local councils may have less control than they used to over local housing issues, but they still have influence. It is appropriate to hold the council to account, whenever possible, with the responsible cabinet members, in a formal public committee setting. The way that scrutiny holds to account can be guided through conversations beforehand with other key players – principally those mentioned in our “discovery” section above. In particular, this will include residents themselves.

Holding to account: Questions to ask

In holding decision makers to account scrutiny should be confident that they are clear about what they want to do and how they are going to do it. In the housing context this means seeking assurance that the evidence base is robust and that cabinet members are working strategically, collaboratively and innovatively.

Whether they call it a vision or not, local councils should have clear picture of what good looks like and this should be the starting point for decision making.

Evidence base

Scrutiny should be asking to see the evidence used for housing strategy. Particularly important is the assessment of housing and economic development needs and housing needs studies. This can be framed to reflect the more specific aims of the review – whether those relate to social housing, private sector renting, strategic planning, homelessness, or a combination of those areas. The aim is to seek assurance that the evidence is robust. General questions to ask include:

- What was the process for producing the assessment?
- Who was involved?
- What was done to provide assurance? Was it externally reviewed?

If the aim is to provide a more detailed exploration of the technical robustness of the assessment it may be necessary to seek advice. This can be provided by council officers themselves or from beyond the council – academics and national experts can often be called on to offer advice. Of course, technical robustness of the methodology of an assessment is just one part of the story. There are several dimensions to a rigorous assessment of research quality – they are

- Quality and transparency in reporting: Is the research presented in a way that can be appraised and used by others?
- Methodological quality: Was the research technically well executed?
- Appropriateness of the methods: Does the research approach match the defined purpose of the study?
- Quality of the messages in the research: Does the research address important policy and practice questions in a way that is both useful and useable?

Working strategically

General

- What is the housing vision for the area?
- What is already good? What needs to be retained?
- What are the priority issues?
- What problems need to be solved?

The Local Plan

The key document for the delivery of affordable homes is the Local Plan and scrutiny should be working to ensure that it is fit for purpose. Key questions to ask include:

- Who has been involved in the development of the plan? How has this involvement shaped it?
- Is the assessment of need realistic? (The Government is bringing in a standard process)
- Is the plan deliverable?
- Do you understand the needs of residents? How have you done this?
- How are you balancing the needs of current residents with the needs of future residents?
- Does the plan identify effectively what type of housing is needed in what areas?
- What tenure balance would you like to see?

- Is there land available to deliver the plan? If not how will it be obtained?
- Have employment issues such as travel to work areas been considered?
- Have all of the transport and other infrastructure issues been properly considered?

Working collaboratively

Collaborative working is essential within a fragmented housing system. Scrutiny should be seeking assurance that the local authority is an effective collaborator. Key questions include:

- What collaborative arrangements are in place to achieve your vision?
- Are partners involved early in strategy development? If not why not?
- Which collaborative arrangements are working well? Which not so well? Why? Do you understand the perspectives of partner organisations? What have you done to achieve this?
- Do you understand the perspective of housing associations and the rules they operate under? What have you done to achieve this?
- Are you proactive or reactive when talking to developers?
- What is the council's approach to viability? How far will developers be challenged when they claim schemes are not viable? Is building more homes in total more important than ensuring a high proportion of affordable homes.
- What are you doing to work with national developers? How are they incentivised?
- How are you joining up with others to take a joined up approach that focuses on healthy neighbourhoods not just homes?
- How helpful is the planning department? Would developers consider officers to be helpful?

Working innovatively

Problem solving culture

When assessing innovation it is important to know if there is a problem solving culture in place. Questions to ask include:

- What housing problems are you trying to solve?
- How are you involving residents in your problems solving?
- How are you involving other departments in your problem solving?
- How are you involving partners in your problem solving?
- What new solutions are you developing?
- Did you test your proposed solution? What was the result?
- What are you doing that would be of interest to other councils?

See also “How can councils secure the delivery of more affordable homes? New models, partnerships and innovations”, published by the Town and Country Planning Association.

Helping with difficult decisions

Investigating can also mean seeking consensus and finding solutions for one off issues – particularly where decisions are seen as controversial or unsatisfactory. This approach will come into its own where scrutiny is proposed of live strategic planning or development issues – although as we have noted above, scrutiny of individual planning applications, or area-specific matters, can be challenging.

Scrutiny can play an important role by helping to assure local people that their concerns are being listened to, as major plans develop. Scrutiny will, of course, need to be designed to complement existing consultation and involvement arrangements – and to ensure that pains are taken to explain scrutiny's role in the process.

Scrutiny can play an important role as a facilitator of public debate in order to:

- To give people the opportunity to raise issues and to feel that they have had a fair chance to be heard
- To seek consensus and solutions where possible

This kind of scrutiny is all about understanding the views of different groups of people – some of whom will be elected representatives, some of whom will be the public, and some of whom will be professionals.

This kind of scrutiny will always be more effective when there is more of an opportunity for plans to be changed. This will usually involve scrutiny being involved earlier in the process than might have been usual in the past. It will be important that scrutiny's work here does not unreasonably raise expectations around a change in policy, for example; the specific role of scrutiny in holding to account can be misunderstood if not explained properly to the public. It goes without saying that scrutiny here would not be (for example) looking at individual planning decisions, but instead at change across a wider geographical area that might have an impact on people's homes and lives.

A public meeting, ideally in a community venue, may be the best way to host the debate. As the aim should be to foster deliberation rather than confrontation an informal approach should be used as much as possible. It might be worth seeking facilitation support from within the council or employing an outside agency.

There should be a clear way of capturing and reporting the discussion as fully as possible so that people can see that their views have been heard and any agreement of the meeting taken forward. It is also vital that there is a clearly communicated mechanism to report any proposals into the decision making process - normally the relevant cabinet meeting.

Questions to ask?

As scrutiny councillors will be in the role of independent facilitators, they should be prompting people to share their concerns and suggest solutions:

- What worries you about this proposal?
- What would you like to see instead?
- What would you like to be different?
- If the proposal was to go ahead what would improve it?

Case Notes

Scrutiny Councillors at the London Borough of Lambeth involved the public in controversial regenerations plans by using call in powers to contribute to Cabinet decision making 'pre-decision'. In one example the judge in a subsequent judicial review described this use of call-in alongside a public meeting as a good example of testing a decision.

Good practice points:

- Hold public meetings in community venues to improve accessibility and turnout
- Make sure that the outcomes from public meetings can be properly considered and responded to as part of the cabinet decision making process

Having investigated local issues of concern, scrutiny councillors can draw on the conversations that they have had to propose solutions to cabinet members and other decision makers.

Residents can act as ‘user testers’ at this stage – helping scrutiny councillors to ‘sense check’ their proposals.

Testing recommendations with residents has a number of benefits. I will help to ensure that recommendations:

- focus on the things that matter most to residents
- are likely to have a real world impact
- work well together as a set
- are written in plain language and can be easily communicated

Of course scrutiny councillors will also need to bear in mind the technical, legal and financial advice they receive, and consider other priorities, but engaging residents at this stage will ensure that scrutiny councillors are able to put the resident perspective front and centre.

Case Notes: Lambeth Inquiry into Resident Involvement

The recommendations of Lambeth’s Resident Involvement Inquiry were tested at a specially convened public meeting held in a community centre. The co-chairs of the inquiry gave a brief presentation about the work that had been done and the residents attending were then invited to discuss the recommendations in small groups. The feedback from these discussion led to six of the recommendations being changed or dropped altogether.

Good practice points:

- Test the findings and draft recommendations of housing related inquiries at public consultation meetings for the residents affected

5 REVIEW

At the evaluation stage of scrutiny work, councillors are seeking to understand whether recommendations have been implemented and, perhaps more importantly, what difference has been made. Traditionally this will involve working through previously agreed actions plans and asking for 'impact statements' from cabinet members and senior officers.

The resident perspective can play a valuable role at this stage. It is residents who will know what has changed and will have the best sense of whether outcomes have been achieved.

Consultation and/or inviting residents to meetings as witnesses can help scrutiny councillors to understand what impact they have had, learn lessons and, if needed, identify further proposals for decision makers.

Reviewing scrutiny work: Questions to ask residents:

When consulting residents about the impact of scrutiny the emphasis is on the difference made on the ground rather than on what has been done and by who. Good questions to ask include:

- Were you aware of this scrutiny work?
- What did you like about this scrutiny work?
- What could have been better about this scrutiny work?
- Have you noticed any differences since the scrutiny work was completed?
- Have things been better for you since the scrutiny work was completed?
- Have things been better for other residents since the scrutiny work was completed?
- What other changes would you like to see?



77 Mansell Street London E1 8AN
telephone **020 3866 5100** email **info@cfps.org.uk** twitter **@cfpscrutiny**

www.cfps.org.uk

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