

Keynote Speech- ‘Governance, Scrutiny and Accountability = trust in politics?’

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Introduction

Scrutiny is a challenging task and many councillors and officers involved in the process can be frustrated and disengaged. However, it is important to recognise the value and significance of scrutiny. In this keynote, the aim is to provide recognition for the work of scrutineers and to help you think about the future of scrutiny and your role within it.

The current national discussions have placed scrutiny at the centre stage more than ever before. Recent council failures and the pursuit of English devolution have raised questions about accountability.

There is also a crisis of trust in politics at both national and local levels, which has deepened over time. To rebuild trust, we must focus on accountability and demonstrate that checks and balances exist within our systems.

The Nolan Principles of Public Life, which emphasises selflessness, integrity, objectivity, accountability, openness, honesty, and leadership – are central to both to how we conduct ourselves and how we present ourselves to those we serve. We should welcome being held to account to these high standards. However, when the cynicism extends to the institutions we work in, we must take action to regain trust. We must address the apathy and disconnect that exists among the public and find ways to engage in meaningful conversations and consensus building about the future of governance.

Oflog

Accountability is closely linked to trust, and visible accountability is crucial in rebuilding trust. The government’s establishment of Oflog, the Office for Local Government, is seen by many as an example of central Government trying to get more grip on the quality of local service delivery, although we still know little about exactly what Oflog will do and how it will work. What we do know is that Oflog will be monitoring performance against a number of key metrics – and that an important part of its work will also lie in overseeing financial resilience. This, inevitably, will see its gaze turning to corporate governance.

However, this new assurance framework should not replicate the Audit Commission, but rather build upon the strengths of local governance systems. The balance between central and local action is vital in this process.

What we may be seeing, is the creation of national systems for oversight which will need to lean heavily on the strength of local governance systems to work properly. And where Government is perhaps not so certain that those strong local systems are present, it may be inclined to take a more interventionist mien – perhaps directly, perhaps in partnership with sector bodies such as the LGA.

This all-forms part of what we might call a new assurance framework for the sector – one in which DLUHC and Oflog are perhaps playing a more muscular role, but where the sector is also expected to be active in drive forward its own improvement.

The balance between central and local action will here be critical.

Strong scrutiny can provide a way to provide a form of assurance that will keep Government at arm's length. This may sound a bit cynical – after all, scrutiny's real purpose is to improve the lives of local people, not to keep Government happy – but I mention this as an argument because I think it may play well with the senior leaders in your authorities.

Strong scrutiny can, and should, be able to nip emerging problems in the bud and to identify and deal with complex policy challenges in a way that Government action can't. This provides a strong argument for meaningful resource investment in scrutiny. This is an argument which is stronger now than it ever has been, and which is backed up by the results of our annual survey, which will be published imminently.

Cultural change

There is a need for cultural change, and a cultural commitment to strong scrutiny and accountability. We are seeing a growing recognition that good governance is not just about having the risk processes and structures in place. Often, it's the informal circumvention of those structures that leads to failure rather than their absence. In grappling with the aftermath of high-profile failures, those designing and delivering interventions in those troubled councils are coming to terms with how central behaviour and attitude were in those failures.

Scrutiny is centrally placed to understand and tackle these cultural challenges. Alongside Audit, Scrutiny is a part of, but apart from, the council. Its unique powers give it the ability to uncover and understand problems which are not apparent to other precisely because they fly under the radar in a council where the culture and practice of governance is not as good as it could be. This understanding comes from the fact that

councillors have their ears to the ground – they have unique local knowledge. They can get access to contemporaneous data (and if they can't, that is a red flag worthy of further investigation). They can question and challenge senior leaders, but also support them in making services better. All of this can build a culture where scrutiny is central to improvement.

EDAF

Government's recognition of this central point is apparent in the new English Devolution Accountability Framework. The EDAF is a document which tries to set out Government's approach to the blend of national and local accountability. Good scrutiny is central to it – it is so important that Government is currently (with CAs current and prospective) developing a separate document called the Scrutiny Protocol, which will form the blueprint for how scrutiny will be expected to work in English combined authorities from now on. The Protocol will complement the existing statutory guidance on scrutiny issued by Government in 2019.

To quickly cover off timescales for this work, the Levelling-Up Bill (to which all this work relates) is expected to receive Royal Assent before Parliament's summer recess, the Scrutiny Protocol is expected to be written by September, and the next (and hopefully more refined, and fuller) version of the EDAF is promised for November. As ever with Government timescales these dates could be subject to change. Looking at this alongside Government's plans for Oflog, you will see concrete evidence of a distinct sense of urgency around local accountability.

You may think that the EDAF – of which you may or may not have heard before – is relevant only to combined authorities, it is more likely that it heralds a substantive shift in thinking regarding local authority governance too. Government wants more areas to pursue devolution deals.

While the attraction of Level 3 deals (featuring a directly elected leader or Mayor) may remain limited, there are still deals to be done at the lower levels, and the EDAF is still engaged in those spaces. The EDAF will therefore come to cover a very large swathe of the country – certainly in population terms – and its impacts will be felt by CAs' constituent authorities as much as by CAs themselves.

It could be that the new "expectations" around scrutiny, and local accountability, that emerge through the EDAF will come to inform that we do things at local level as well. This is, perhaps, Government's intention. From their point of view the more consistency and rigour that is brought to the assurance framework the better – and this devolution-specific work, alongside the wider work Government is doing on the assurance framework, forms of sort of pincer movement by which authorities around the country will be provoked to change, dare I say enhance, their existing practice.

Practical guidance

What does this mean for the way that scrutiny can expect to evolve over, say, the next year or two? Considering the upcoming general election, if we have a change of Government, could all of this be dismantled and undone?

The fact is that – while “levelling-up” as a slogan may bite the dust if there is a change in Government – many of the underlying trends which are currently active will continue.

It is a near certainty that any new Government would seek to act on economic development and that further devolution would form a key plank of that effort. It is certain too that a new Government would see strong local accountability as part of a means to make that devolution stick. Labour has, in fact, committed to the introduction of local Public Accounts Committee, an idea which we are proud to have come up with nearly a decade ago and whose time, perhaps, has now come.

So, what can we be doing now that will put us on the front foot for this work?

Firstly, I'd recommend awareness of ongoing debates around the emergence of the new assurance framework for the sector. Moreover, by attending the CfGS Annual Conference and by keeping on track with what's happening, you'll likely be sufficiently well informed to position scrutiny in a way to capitalise on what may be coming.

Think about what Oflog's arrival may mean for scrutiny's work locally and how a new approach to accountability to Whitehall might inform your work programme. Being able to go to the council's leadership with an informed view of scrutiny's “place” within this new world, rather than waiting for it to happen to you, is likely to be a winning move.

Secondly, I would think about undertaking reviews and investigations – where resource permits – into matters that you know will continue to have relevance and salience no matter how the wider policy agenda shifts in the coming months.

Topics like climate change, equality, the cost-of-living crisis – these things are not going away. Councils badly need scrutiny's headspace to understand and act on these complex, systemic problems. The sector's financial constraints and weaknesses, too, are very much present. This demands a renewed look at how your own council uses the scrutiny process to bring challenge to the budget development process, and how in-year scrutiny of finances is carried out.

Doing this work will involve a closer working relationship with Audit too. Being proactive in this area, I would argue, is one of the easiest ways for

scrutiny to demonstrate its worth in the coming months. But doing so will also require your s151 officers and MOs to front up to the responsibility of making that happen. We obviously want to support you as much as we can to ensure that the “golden triangle” of statutory officers really get the value of scrutiny in this crucial area.

Other UK Jurisdictions

Thirdly and finally, I would look at the experience of other UK jurisdictions. Wales’s assurance framework for local government is overseen by the Welsh Government but also, importantly, by Audit Wales.

We can learn a lot about what may be yet to come in England by looking at the way that assurance and local governance has developed in Wales in recent years. If you’re here in England, learning more about the scrutiny of public service boards, the management of joint scrutiny – arguably substantially rather more mature and effective in Wales than it is in England – and other things will cause you to reflect differently on your own practice.

Colleagues in Wales would tell you that legislative changes such as the Wellbeing of Future Generations Act 2015 have had a big effect on both the design and delivery of services but also their scrutiny, by requiring a longer-term approach to be adopted in how people think about sustainable development and wellbeing.

Understanding how scrutiny has been grappling with that challenge and opportunity – and the lessons we can learn in England about the management of long-term, systemic challenges – will, I think, be productive if you can spare the time to reflect. The passage of the Local Government and Elections Act 2021 also evidences a wider modernisation trend in Welsh local government that holds lessons for those of us in England.