

Practice guide 1

Making effective recommendations

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This is one of a series of practice guides produced by the Centre for Public Scrutiny to assist those working in the overview and scrutiny functions of local authorities.

What is this guide about?

This guide is about the power that scrutiny committees have to make recommendations to the council's executive, and to certain other organisations. It explains why making effective recommendations is critical to good scrutiny, and how scrutiny practitioners can do this.

Why are recommendations important?

Recommendations are the way that scrutiny can have an impact. Making good recommendations, and monitoring them, makes it more likely that scrutiny's work will add value.

When should recommendations be made?

Scrutiny has the opportunity to make recommendations whenever an issue is placed before it for consideration. In most instances where scrutiny looks at an issue, it should be with the end result of making recommendations in mind, where practical. By "practical", we mean when:

- The issue falls within the remit of the council (directly or indirectly) to the extent that scrutiny can be confident that a recommendation will be considered and acted upon;
- The issue is being considered at a time when it is still open to influence – ie, final decisions have not been made, or a review of a policy is under way, which mean that a recommendation could realistically lead to change;
- Scrutiny is able to gather enough evidence on that issue – in a timely and cost-effective manner – to have some confidence that any recommendation will be robust enough to be taken seriously.

Ultimately, this is underpinned by having a clear idea about the return on investment of the work you are undertaking. We have developed a model for establishing the return on investment of scrutiny work which starts with effective topic selection (including effective prioritisation of topics), and moving through the way in which the public and wider stakeholders are engaged in designing the review, to the end result of producing a piece of work with clear, measurable and meaningful outcomes. We discuss the principles of return on investment in more detail in **Guide 3** – more information can be found in our guides "Tipping the scales" (<http://ow.ly/wkLnV>) and "Valuing inclusion" (<http://ow.ly/wkLxd>).

How should recommendations be made?

Drafting - There is no single “best” approach to making recommendations. What they look like will differ from topic to topic and from council to council, However, there are some basic general principles.

- Recommendations should be evidence-based, specific and realistic enough to be implemented. Many of the other points we make below are implicit in this central requirement.
- Recommendations should have a clear focus on outcomes “on the ground”. They should focus on a measurable change in a service, which you can use to establish the return on investment of scrutiny’s input. For example, a specific increase in resident satisfaction, a reduction in housing rent arrears, a reduction in the number of instances of anti-social behaviour in a town centre, and so on; **Leeds** think about possible measures of success from the very outset of scrutiny work. You will be looking to identify the “payback” from scrutiny’s work – who benefits, and when? This will require you to make some assumptions about the past, present and future, but the more evidence you have the easier this will be;
- Recommendations should be addressed to a specific person or group. Where responsibility for delivering a recommendation’s outcome is unclear, it makes it less likely that it will be implemented;
- Recommendations should engage with financial realities – for example, where a recommendation involves additional expenditure, it may increase the force of the recommendation if funding sources can be recognised. However, it should not be required for scrutiny to fully cost all of its recommendations; this is an issue for Cabinet. Reviews undertaken at **Merton** (and other authorities) specifically look at cost implications. Looking at “return on investment” (see **Guide 3**) will make it easier to come to a judgment as to whether a proposed investment in services is justified;
- Recommendations should be developed in partnership. You should be prepared to speak to the executive, to senior officers and to partners about recommendations in draft, before they have been agreed. Provided it is accepted that the decision as to what recommendations are submitted remains at the absolute discretion of scrutiny councillors, such discussions can help to ensure that recommendations are more robust and realistic. **Leeds** have an agreed approach, with Cabinet and partners, to this. Scrutiny in **Enfield** liaises particularly closely with the executive. **Knowsley**, too, carry out informal liaison before recommendations are submitted. Some councils – **Northampton** and **Broadland** are examples – have more general “scrutiny protocols” which seek to define these relationships in a slightly more formal way.

Open-ended recommendations, where acceptance does not actually commit decision-makers to further action, should be avoided. For example, recommendations beginning, “Cabinet should consider...” or “Cabinet should investigate further...”

Agreement - There is a legal requirement for Cabinet to respond to recommendations within two months of them being made (**s9FE(4), Local Government Act 2000**). Some councils’ Constitutions supplement this requirement. For example, it is usual that recommendations be formally tabled and responded to at a Cabinet meeting.

Where recommendations are made to a named “partner organisation”¹ that body only has a responsibility to “have regard to” those recommendations (s9FF(2), **Local Government Act 2000**). This does not include a duty to formally respond.

Because of the potential uncertainties and disagreements that can accompany the making, and agreement, of recommendations it is important that there be agreement between scrutiny and others about when and how they will be made, and what an acceptable response will look like. Ideally this will involve partners feeling able to make a commitment to produce a substantive response, just as the Council’s Cabinet would.

A response to a recommendation from a decision-maker should consist of:

- A clear commitment to delivering the measure of success (see above) within the timescale set out;
- A commitment to be held to account on that delivery in six months or a year’s time (see below);
- Where it is not proposed that a recommendation be accepted, the provision of detailed, substantive reasons why not. This happens in **Blaby**, amongst other authorities.

Monitoring - CfPS believes that recommendations should be monitored and evaluated after they have been made, and that scrutiny’s recommendations continue to be “owned” by scrutiny, even though it is for Cabinet, and/or partners, to deliver. Some councils take a different approach – **Warwickshire** and **Lancashire** are two who actively pass on all responsibility for checking the implementation of recommendations to the executive. Often a wish to pass on responsibility in this way comes from a worry that monitoring recommendations can become an “industry”, sapping scrutiny resources that should be spent on new topics, and that it can encourage scrutiny to focus on “easy wins” that can be ticked off, monitoring process and procedure rather than tackling tough and challenging issues in a meaningful way.

We think that there are ways around these problems.

- Returning six or twelve months after recommendations have been made in a proportionate and planned way – not re-running the scrutiny review, but “tracking” recommendations and being prepared to pick up any that are not being implemented. **Lambeth** does this. After this set period has passed, scrutiny should move on;
- Making sure that recommendations meet the criteria that we have set above – particularly that they focus on outcomes;
- Recognising that some recommendations may take many years to bear fruit, and that all you can hope for after a year may be some indication that the council is heading in the right direction, rather than a wholesale transformation in the service involved;
- Trusting the executive to implement recommendations and only bringing issues back to committee where there has been a clear failure to do so. This should happen rarely, but requires that scrutiny members and officers have some understanding about whether recommendations are being implemented in the first place;

To whom should recommendations be made?

¹ Lists can be found at Chapter 1 and Part 5 of the Local Government and Public Involvement in Health Act 2007

The council - Generally recommendations should be addressed to Cabinet Members or the Cabinet as a whole; where scrutiny operates in a committee system authority it will be to the relevant committee, and in a mayoral authority it will be to the executive Mayor.

Recommendations addressed to the council should relate directly to matters on which they can take direct action, either individually or in partnership with others. Recommendations should not be made that require the council to “lobby” others. Where this might be thought necessary scrutiny should take the necessary steps to submit a recommendation directly to the proposed subject of such lobbying.

The council's partners - Where a “partner” (under the terms of the **2007 Act**) is being asked to respond to a recommendation, scrutiny should speak to the relevant organisation to find out:

- To whom the recommendation should be addressed;
- Whether there are business planning issues of which scrutiny should be aware that require the recommendation to be framed in a certain way (even if the partner has agreed to the terms of the recommendation).

It goes without saying that the content of recommendations should be shared and discussed with partners before being submitted.

Other people and organisations - Generally the same rules will apply to engagement with other organisations as apply to “named” partners. Early engagement and discussion will be important. This is of particular concern where the partner is a regional or national body. **Gloucestershire** (water companies), **Basildon** (train companies) and **Suffolk** (Highways Agency) all present examples of authorities successfully engaging with partners over whom they have no formal powers.

It will probably be of little value to make recommendations directly to central Government. Where such recommendations are made, it suggests that scrutiny is not focusing properly on those areas of local policy that local authorities and their partners can influence. Parliamentary Select Committees should not be seen as organisations/groups of people to whom recommendations should be addressed – they have no decision-making powers.

In **Guide 13** we set out how scrutiny can work with other scrutineers, which can help you direct recommendations to organisations who might otherwise be difficult to influence.
