

The Change Game

How councils are using good governance as a way to navigate challenging times



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Acknowledgements

CfPS would like to acknowledge the commitment and focus of the officers and councillors in the nine Development Areas who worked with us on this project: Buckinghamshire, Cardiff, Cherwell and South Northamptonshire, Haringey, Knowsley, Redbridge, Torbay, Swansea and Worcestershire.

We would also like to acknowledge the assistance provided by John Cade and Linn Phipps.

About the Centre for Public Scrutiny

The Centre for Public Scrutiny (CfPS) (an independent charity) is the leading national organisation for the development and application of policy and practice to promote transparent, inclusive and accountable public services. We support individuals, organisations and communities to put our principles into practice in the design, delivery and monitoring of public services in ways that build knowledge, skills and trust so that effective solutions are identified together by decision-makers, practitioners and service users.

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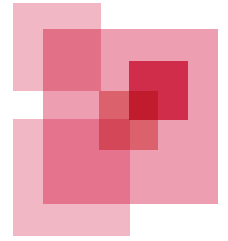
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June 2015

Introduction



Councils across England and Wales have undergone major changes in the last couple of years. This is set to continue for the foreseeable future.

Some transformation of local government would have been inevitable even without the financial challenges facing councils. As demographics and society changes, residents' needs are no longer the same. Our understanding of how public services impact on outcomes has also improved. There is now a recognition that a whole system approach, which includes residents and communities, is needed to make a real difference to people's lives.

The financial challenge has, however, been a powerful driver of change and has forced local authorities to consider how they can continue to meet residents' needs in dramatically different ways.

Decisions taken during periods of major transformation often need to be taken quickly whilst still ensuring they are as robust as possible. Costs and benefits need to be analysed. Options need to be appraised and discarded, as appropriate. The needs of local people need to be collected, considered and taken into account. Alternative delivery models need to be designed and developed.

Residents and decision-makers alike need to have the confidence and assurance that decisions are not only robust but transparent and subject to effective scrutiny. This is not only because democracy and openness are "good things", but because such scrutiny will deliver clear benefits to the quality of the issues under discussion.

Since summer 2014 we have been working with nine Scrutiny Development Areas (SDAs) in England and Wales, helping them to understand how robust governance can help them to deliver major change. We have focused on two topics.

Firstly, we wanted to look at **transformation** in general – how councils embark on major change and what contribution scrutiny members can make to those plans, as they are designed and delivered. Secondly, we wanted to look specifically at plans for more **commissioning**. The act of commissioning presents a particular accountability and governance challenge.

A note on the text

Separate appendices to this report are available setting out the detail behind our findings and recommendations. This includes a detailed reflection from CfPS on our experiences supporting the nine Scrutiny Development Areas, case studies written by the SDAs themselves, a glossary of commonly-used words and phrases relating to transformation and major change, and a methodological note setting out how we identified the nine SDAs and what support we provided to them over the course of the project. These appendices can be found at www.cfps.org.uk

A call to arms, and a challenge

Every year we carry out a survey of officers and councillors involved in local authorities' scrutiny functions. In 2015, we received nearly four hundred responses from people in more than 80% of local authorities in England and Wales.

Well over half of those responding told us that they had had no substantive involvement in major service change and transformation plans, where they were being developed and implemented. 18% of respondents considered that scrutiny in their authority was not able to highlight and address instances of poor decision-making.

We need to question why this is the case. We consider that there are a range of possible reasons:

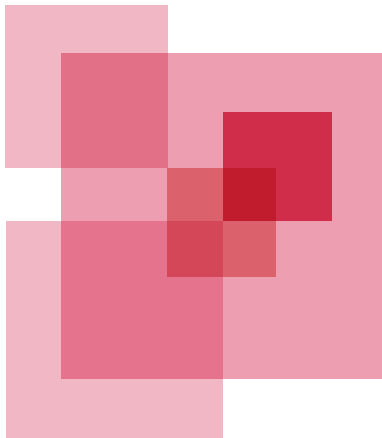
- A lack of leadership buy-in and support for scrutiny/ challenge
- A lack of understanding of the value of scrutiny and the role it plays in effective governance and decision-making
- The political dynamics impacting on how scrutiny is used
- The need to make 'quick' decisions in order to achieve financial savings reduces the time available for scrutiny

Our work with nine different local areas across England and Wales shows that such substantive involvement in change, which brings scrutiny and non-executive activity into the very centre of that change, can happen. In this report, we demonstrate practical approaches which can make it work. The challenge is now for scrutiny officers and councillors – and, critically, senior officers and Cabinet members, and partners – to work together to make it happen.

Our support work has presented a picture of local government making enormous efforts to make some incredibly wide-ranging decisions. A focus on outcomes is creating a different mind-set: more re-designing and de-commissioning of services, more integration between different kinds of service, and personal responsibility being encouraged amongst the users of those services. These decisions will, in most places, affect the way that services are delivered for the next ten, fifteen or twenty years.

For many councils, there is limited capacity to support this scale of change as well as minimal experience. Space and time for people to think and reflect, to gather and analyse evidence, to mull over options and talk to others about these issues can be seen as a luxury. The need for strong leadership and decision-making can be interpreted as the need to make decisions quickly, and to stick with them, without opening issues up to wider debate. This, tied with questions about the credibility and legitimacy that non-executive, scrutiny members bring to the equation, can lead queries about the value of involving those members in a meaningful way in major transformation programmes, even though executive members and senior officers may think that it would be sensible to do so in theory. There is an assumption that the more people are brought in to play a part, the slower things will go, the more complexity will arise and the less bold proposals will become.

This is to look at things from completely the wrong angle. We know that input from scrutiny will lead to better decisions, better outcomes and more insightful, resilient councils. This report is about making that case, and making decision-makers listen to it.



The approach: thinking and doing things differently

Local accountability and local solutions are vital in making changes and improvements to the lives of local people. It's therefore not right or appropriate to set out a prescriptive governance methodology or process for every local authority which is going through major changes. We think that a basic principle should be that effective involvement, in this case of councillors, in considering and debating those changes, will make the end product more robust. A secondary benefit is that their understanding (not always buy-in) will be increased from being part of the process.

That there are some key ways that scrutiny councillors, and the officers who support them, can think about governance more productively.

That there are also some ways that members with executive responsibilities, and the officers who support them, should support the scrutiny role to make it effective, and to ensure that there is a positive return on the authority's investment in scrutiny.

1 **Scrutiny members should understand the rationale**

Is change being driven primarily by financial circumstances, or are there broader considerations? Do pressures from outside the authority's area (ie national pressures) drive change, or are there specific local concerns? Are the reasons for the change underpinned by evidence?

There will be a range of reasons. Some reasons may seem contradictory; change is complex and multifaceted. Some reasons may be difficult to unpick and understand. But a clear rationale will always exist. If it doesn't, that will be the first issue that scrutiny will need to address!

The rationale is likely to be about both **saving money and improving outcomes**. This may lead to decisions to decommission (stop) a service which is proven not to having an impact on outcomes, or deciding to spend the money more effectively by making fundamental changes to how a service is designed, delivered and monitored. There may be a sense that the status quo is not an option – change must happen because services, as currently designed, are unsustainable.

Even transformation and change programmes which are principally about making savings should be using insight from service users, and others, to inform those decisions. This will mean that councils can be more confident that they have considered all the available options, realised the risks and mitigated where possible.

The council may have a different rationale for change and transformation in relation to different areas of their business. For example, a council seeking to improve outcomes by contracting from a wider range of providers may be thinking primarily about sustainability; the need to make immediate cash savings may be less pressing. A council seeking to carry out a swift programme of change in relation to high-spending areas such as care may be looking to make in-year savings. The executive will be able to help by being prepared to explain the rationale for its change plans, by sharing the evidence that was used to reach those conclusions, and to engage with scrutiny members early enough, to allow that rationale to be constructively challenged.

Understanding this rationale is critical for three reasons:

- A change programme built on a dubious rationale may well be fundamentally flawed, even if all other aspects of the change are delivered exceptionally well;
- It enables councillors to understand how they can focus their work (see below);
- It allows councillors to make the judgment of whether the changes being proposed, and carried out, will satisfy this rationale.

2 Scrutiny members should understand the change

What information exists?

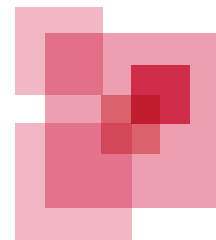
Once we understand why change is necessary, what is the nature of the change that's been decided on? How do we know what impacts there will be? What is the evidence base?

Ultimately, there has to be evidence and information underpinning a major change. Importantly, this is not the same as asking (as we have discussed in point 1) what evidence underpins the rationale for changing in the first place. Here scrutiny needs to understand why a particular option or approach is being pursued to satisfy that rationale.

This may exist in the form of:

- Data on resident need starting from the joint needs assessment but also more focused data for example – how do older people want to live their lives, what is most important to young people;
- Options appraisals, for different approaches considered but not taken;
- Business cases for particular parts of a proposal, or the whole transformation programme;
- Project plans, for individual elements of a transformation programme or the whole programme;
- Performance and finance frameworks for newly-designed services, prepared before the change takes effect;
- Risk registers and other risk management documentation;
- Governance and contract management frameworks (for example, where it is proposed to established a governance system for a range of delivery partners, or where a jointly-owned company is being established to manage contracts on behalf of a range of local partners);
- Existing business or service plans and priorities should be available to allow members to make a judgment about how services are delivered now, and what need is now and in the future.

All this information should be available and accessible to councillors, and the executive should take active steps to make this happen. There is no justification for refusing councillors' access to any and all of this information. Safeguards can be put in place to ensure that councillors have an unimpeded picture of what is being planned and delivered. For example, officers writing reports or papers for



internal circulation and discussion may need to change how they do this. Firstly, more careful drafting will make it easier for such papers to be released into the public domain. Secondly, thinking about members' likely needs and their priorities will hopefully result in such reports and papers being clearly and more easily understandable.

This will involve a change to the way that many council officers work. It may also make it necessary to change scrutiny councillors' own ways of working. For example, some information may need to be discussed in private, rather than in public meetings. Effective scrutiny, however, always benefits from being able to transact as much business as possible in public. We explain more on this point in the final section.

Who is involved?

Who are the key partners? How will relationships be managed? What does this mean for the role of councillors?

Transformation will entail new relationships and new partnerships. Twenty years ago, most council services were delivered directly, by the council. Accountability was understandable and straightforward, councillors on service committees could bring Heads of Service to those committees and know that there was a direct line between the town hall and the work of frontline council officers. The situation now is more complex, and that complexity is increasing. Councils are becoming more like hubs for commissioning and contracting services from a wide range of providers. Even where councils are not carrying out massive commissioning exercises, they are collaborating with their neighbours, and with other bodies, to deliver services. Understanding these relationships is critical to success. It's about knowing who's responsible for what, speaking to the right people, making recommendations which are achievable in this context, and not treading on people's toes. It's about understanding where scrutiny has the potential to fit in.

Members and officers with executive, or executive-supporting, responsibilities need to be prepared to explain who it is with whom they work, and how those relationships are managed. They may need to mediate between scrutiny councillors and those partners, to smooth the way for scrutiny. They will also need to ensure that they are available and willing to speak to members about their roles, and to think, themselves, about how scrutiny councillors can contribute productively to the initiation and growth of those relationships.

The principal stakeholder for all transformation projects and programmes will be the public. We note in the section below the focus that scrutiny members can bring to residents' needs. It is also vitally important to recognise that the voice of the residents and service user can get lost in the new complexity of delivery. In gathering evidence and considering potential impact, there is value for scrutiny members in building relations and taking evidence from more direct sources such as representative groups, community leaders or service users and their families.

3 Scrutiny members should plan well, and stick to that plan

From what we understand about the change, what should scrutiny's niche be? How will councillors not on the executive know they are looking at the right issues at the right time?

The first two points which we have set out ensuring that scrutiny councillors have the understanding and information in place to plan their work. Our third point is about making these plans, and starting to meaningfully engage in the process of change and transformation.

One of the most important things for councillors to do will be to identify a niche for their work – an area of focus which defines how they will be involved. A niche could:

- Be chosen for an individual project or issue (because the council and its partners have adopting different governance arrangements for different strands in their transformation plans, and scrutiny needs to flexibly adapt itself to those different approaches);
- Be chosen for the whole of a council's plans for transformation (because it makes sense to be able to identify a common theme which might serve to identify some cross-cutting issues, and a single theme or niche will also make scrutiny, and its members, more flexible);
- Be chosen to guide the entirety of scrutiny's work (because when a council is engaged in profound transformation, everything becomes about that exercise, meaning that a single focus for the totality of scrutiny's work is required).

It is understandable why councillors in particular might be dubious about this approach. The idea of choosing a comparatively small issue or area on which to focus seems dangerous. There might be a risk of problems arising in areas members are not looking at, and things falling between the cracks. Worse, it could be seen as scrutiny narrowing its ambitions, contenting itself with a partial analysis of bigger, more fundamental issues, with councillors being squeezed out of important discussions on big issues.

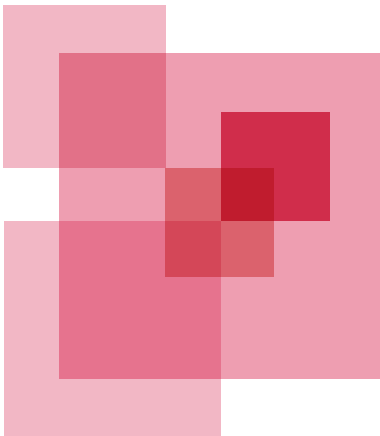
However, all the evidence we have gathered demonstrates that it is the best way to make scrutiny effective.

With limitless resources and time, councillors could look at all aspects of a forthcoming change. Sadly this is unrealistic. There is likely to be a short window of opportunity for scrutiny to engage, and a limited amount of officer and member time to do so. A significant amount of prioritisation is necessary, and it's best to make this decision on prioritisation ahead of time, to limit the opportunity for errors occurring. Hence the need to identify a niche area of focus.

Our work with our Scrutiny Development Areas has affirmed for us the importance of this focus – but has also highlighted the real difficulty in identifying such a focus area, and then sticking to that decision irrespective of the temptation to expand and look at other things.

Identification of the “niche” is not something that should be arrived at on a whim. We think that there are probably five options, but this list isn't exhaustive.

- **Focus on the customer/resident.** Looking at plans and proposals from the point of view of local people. What is it that they actually want or need? How do we know that? What assumptions might decision-makers have made about those



needs? How will we make sure that services continue to meet people's needs as those needs change? Scrutiny could aim to make direct contact with the public, having conversations with them about their needs and aspirations.

- **Focus on value.** This is about looking at whether plans and proposals are economic, efficient, and effective. It is also about looking at the wider requirements of social value. A focus on value might be of particular use when councils are looking at issues relating to commissioning. Scrutiny could assess plans against commonly-understood indicators of value (including, for example, return on investment tools and cost-benefit analysis) and make suggestions for change. How have benefits been assessed? How and where will costs accrue? Will benefits arise immediately, or is there likely to be a delay?
- **Focus on risk.** This is looking at plans and proposals from the point of view of resilience. It is about the transition from a traditional service to a transformed one, and about the robustness of the transformed service once it is in place. Risk is central to this kind of investigation. What risks have been identified? By whom, and how? What impact would they have? How likely are they to occur? Do all partners share a common view about the impact and likelihood of risks? How are we monitoring implementation and seeking to mitigate risks?
- **Focus on the system (including organisational development).** Rather than looking at the substance of transformation plans and proposals in detail this approach focuses on ensuring that the council and its partners have the systems in place to ensure that they can effect transformation smoothly, efficiently and without harming service delivery. It is also about ensuring that a transformed service will function effectively. What are the transition arrangements, and how have they been formulated? How is responsible, and when do interventions happen if performs falls below a certain standard? Do these people have the right skills; are the people with the right skills in the right place? How are problem issues escalated and tackled? What are the accountabilities and relationships where – for example – a range of different providers are involved, providing services through a range of delivery vehicles? How is business continuity being managed through the process of transition, and how are people being kept informed?
- **Focus on performance and quality.** In a couple of the areas where we provided support, scrutiny took on a performance monitoring or quality assurance role. Here, by exception, scrutiny councillors established systems and processes – within the council's existing contract management and intervention systems – for councillors to bring their own perspective to bear on performance issues. In relation to commissioned services, particular challenges arise here, but careful planning, and candid conversations between officers and councillors, can result in well-designed and efficient member-led performance management systems.

4 Scrutiny members need to own the change

What is happening to ensure that the scrutiny function and process are seen as an integral part of the governance arrangements in a transforming authority? How does the mindset of councillors and officers – occupying both executive and scrutiny roles – need to change to make this happen? What positive ways of working exist in current scrutiny ways of working that can be built on to make this happen?

Transforming public services is about making structural changes. It is about changing ways of working, and the various different organisations and people who lead and deliver services. But it is also about changes in behaviours and attitudes. Those changes are necessary because transformation is about fundamentally rethinking the relationship between those who lead, design and contract services, those who deliver them, and those who receive and experience them.

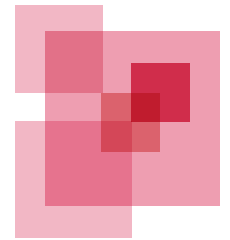
Where the scrutiny process, led by scrutiny councillors, succeeds, it will be seen as an integral part of the governance framework for the council, its partners, and the services they provide together. Decision-makers will get value from the constructive challenge it provides and scrutiny councillors will be at the heart of critical decisions about their constituents' futures.

Scrutiny councillors will have to see themselves as a part of the transformation process, not spectators looking on from the sidelines. The executive will have to see scrutiny in the same way.

This involves changes of behaviours from all those involved.

■ **From scrutiny councillors.** Scrutiny councillors will need to recognise that – if they are taking a part in challenging the development of transformation or strategic commissioning plans, it will give them a stake in the final decision. This does not necessarily create a conflict of interest, because it remains the responsibility of Cabinet, and officers (and the council's partners) to finalise and implement the decision. But scrutiny members need to think of themselves as integral. This requires an acceptance of the need for frank, constructive discussion; for scrutiny to operate flexibly; for scrutiny to ensure that its work and priorities complements the work of Cabinet and its partners. The principal difference here from more traditional methods of scrutiny is that, to work properly, the scrutiny of transformation plans requires a sense of shared ownership of those plans. This is not just a "whole council" endeavour – it is "whole area", in which all have a duty to work together to deliver the outcomes the area needs. It presents a challenge to scrutiny members, who may wish to exert party political opposition to changes, potentially through the scrutiny process. It is right and appropriate that members feel able to vocally oppose changes from a party political platform, but they will need to consider whether the scrutiny function provides the most productive means to do this. Our past research suggests not. Scrutiny can, however, provide a way for those concerns, and the wider concerns of the public, to be addressed in a more managed and planned way. This feeds into the next section, about the need for scrutiny to change itself.

■ **From senior officers.** Senior officers need to understand what scrutiny – and the perspective of scrutiny councillors – brings to the table. There may be a tendency to assume that scrutiny members bring anecdotal, parochial opinion and party political views which will be unhelpful, as well as slowing the process of transformation down. Our work has demonstrated that members can successfully overcome these misgivings, but only if given the opportunity to do so and the freedom to act critically, but constructively. While officers are often ready to talk about the benefits of member involvement in the abstract, making it happen can be more challenging. Senior officers will increasingly come to understand that the perceived uncertainty and risk attached to bringing councillors into the debate on complex and significant service change is a way to minimise risk later on, and to strengthen the decision-making process overall.



- **From Cabinet.** Cabinet sets the tone on transformation. Some executives will want to push forward on a firm transformation agenda, bearing in mind the immediacy of the financial crisis in some councils and the pressure to change. This may work against the more deliberative, reflective approach which scrutiny may demand. Cabinets should think about scrutiny's possible niche and about whether they can assure themselves that they understand the role it can perform, particularly in councils with limited corporate capacity.

5 **Scrutiny members need to be prepared to change scrutiny**

Major change is potentially destabilising. It may lead to long-held assumptions and resident expectations about service delivery being challenged – and for challenges to assumptions about how that delivery is supported. This implies that non-executive activity, and scrutiny itself, will also need to transform. This takes account of the needs to consider both the costs and benefits of governance.

However, changing scrutiny is something which demands ownership from everyone, not just scrutiny councillors and officers (although they are the ones who will need to lead it).

Scrutiny councillors and officers may find themselves looking in two directions – outwards, to the residents, service-users and the services they are meant to be scrutinising and improving, and inwards, to their own systems and processes. Carrying out these two sets of activities simultaneously is extremely challenging. Add to that the likelihood of diminishing resources, and the fact that the substantive scrutiny work we are talking about will be extremely resource intensive, and it makes scrutiny's task a microcosm of the wider challenge faced by the authority, and the area.

Managing the scale and pace of the changes will require careful thought as well. Flexibility will be required for scrutiny councillors to get to grips with complex issues, zero in on those parts which are of most importance (and where scrutiny can add most value), and quickly develop recommendations for change, if change is necessary. Flexibility will also be needed to take into account those times when the executive's plans change.

Given these challenges, we think scrutiny functions around the country need to think quickly and creatively about making some big changes to how they operate. The results of our Annual Survey in 2015 highlighted scrutiny's general disengagement from transformation-related issues, and real difficulties in making an impact. Some scrutiny functions may already be ready for this challenge. However, some scrutiny functions which may have worked excellently in the past may not be ready for the profound pace of change in the next couple of years – past performance, as ever, is no guarantee of future success. Councillors and officers working in councils where scrutiny struggles to stay relevant at the moment are going to have to take action immediately.

Time is running out for scrutiny to make these changes. We set out what they might be in our conclusion on the following page.

Conclusions

Both executive and non-executive councillors need to work together to make changes to the scrutiny function which will make it better able to engage constructively with plans to dramatically alter and improve the outcomes that local people can expect from the public services delivered to them.

- **Ruthless and consistent prioritisation.** This report has repeatedly returned to the idea of identifying a focus area. We think that a focus on the return on investment of scrutiny work will be able to help scrutiny to explore its options, and make decisions as to what is most important.
- **Flexibility.** Changing scrutiny's processes to allow councillors to make quick decisions to look at things quickly and conclusively, where the council's priorities might be changing – but sticking to the focus, or niche, we talked about above.
- **Drawing on wider officer support.** It is the duty of all officers working for the authority to provide support to all members. This understanding is critical to securing success through scrutiny – the scale of work in which councillors could become engaged involves too much preparation for all the onus to be placed on scrutiny officers. Other staff will need to step up to support scrutiny councillors to carry out their role properly.
- **Councillors leading.** In many councils, members may not have the time to devote significant energies to this work. But they need to be the ones leading it, challenging themselves to be realistic about their own workload, the priority and realism of that work, and following it through to a clear conclusion. Councillors have the unique benefit of being elected champions for their local residents – they should bring this experience to bear on their scrutiny work.
- **Executive commitment.** Changes to scrutiny's ways of working should not be seen as limited to the work of scrutiny members, and democratic services and scrutiny officers. The executive and senior officers have an equal part to play. They must engage with councillors and involve them in the change and transformation process in a way that understands their critical democratic function. Scrutiny members will need to be recognised as having a vital part to play in the governance of decisions which will ultimately have a massive impact on local people.

Executive councillors and the officers supporting them can no longer sit back and assume that scrutiny will function without their practical input. Scrutiny councillors need to be given the freedom to transform their own ways of working to make them as flexible, dynamic and outcome-focused as the services which executive members are themselves designing for the community at large. The executive needs to create the space for this to happen. It is only by this shift in expectations and commitment that scrutiny will be able to deliver the kind of outcomes that can, and should, happen.