



starting to
modernise

developing your council's scrutiny role

a practical guide

The Joseph Rowntree Foundation has supported this project as part of its programme of research and innovative development projects, which it hopes will be of value to policy makers and practitioners. The facts presented and views expressed in this report are, however, those of the authors and not necessarily those of the Foundation.

© Joseph Rowntree Foundation
All rights reserved

Published by New Local Government Network
for the Joseph Rowntree Foundation

ISBN 0 9534 903 4 3

Price per copy: £13.95 (+£1.25 p&p)

Prepared and printed by
New Local Government Network
1 Chapel Court
Borough High Street
London SE1 1HH
Tel 0171 357 0051
Fax 0171 357 0404
Email network@nlgn.org.uk
www.nlgn.org.uk



starting to
modernise

developing
your
council's
scrutiny
role

a practical guide

Sue Charteris
Professor Paul Corrigan



contents

Acknowledgements	6
The scrutiny process in diagrammatic form	7
Terminology	8
Introduction	9
Chapter 1 How scrutiny is carried out now	12
Chapter 2 The legislative context	14
Chapter 3 How scrutiny works in the House of Commons	18
Chapter 4 Types of scrutiny	21
Chapter 5 Organising choices	24
Chapter 6 Scrutiny and best value	30
Chapter 7 Members' roles in scrutiny panels	32
Chapter 8 Officers' roles in scrutiny panels.....	36
Chapter 9 Getting in touch with the public	40
Chapter 10 Scrutiny and cultural change	42
Chapter 11 How will successful scrutiny add to the success of your council?	43
Chapter 12 Recommendations to national bodies.....	44
References and further reading.....	45

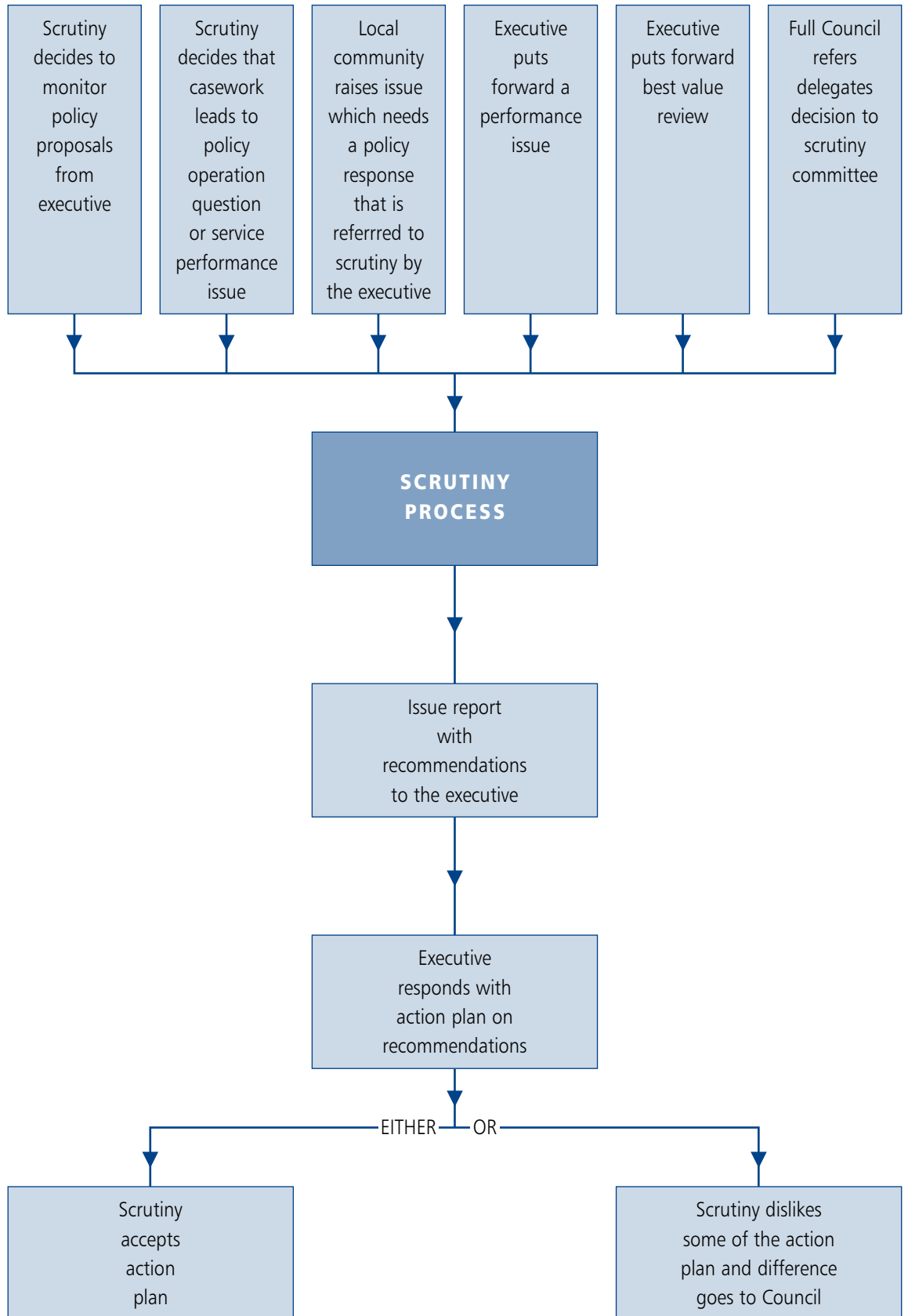


acknowledgements

We would like to thank friends and colleagues in numerous authorities, some of whom volunteered case studies, the LGA, DETR and those who commented on the draft with sympathetic scrutiny. Particular thanks go to Peter Barker, Lord Steve Bassam, Jo Boyd-Barrett, David Collins, Paul Croft, Helen Dawson, Brendan Chester Caswell, Cllr. Katy Donnelly, Geoffrey Filkin, Paul Griffiths, Kate Howie, Bill Hamilton, Cllr. Sally Powell, Dennis Reed, Janet Rutherford, Dr. Robin James, Paul Rowsell, William Saunders and Prof. John Stewart.

June 1999

the organisation of different scrutiny processes





terminology

Starting in 1999 there will be major changes to the political management structures of every local authority. Since there is no simple blueprint being rolled out to each authority, not only will there be different systems in each local authority but there will be a different language to describe them.

This pamphlet describes the scrutiny process. In many local authorities this new system has been defined as a:

- **scrutiny panel** - they have usually been called 'panels' to differentiate them from the old committee system. This has been helpful during the transition;
- **select committee** - some local authorities have demonstrated the similarity of this new system to the House of Commons by calling them **select committees**;
- **commission** - many councils have set up scrutiny **commissions** to undertake the scrutiny of external bodies or local issues;
- the Government's Draft Local Government Bill refers to **overview** and **scrutiny committees**, although the Welsh White Paper uses the term **monitoring** as do a number of local authorities.

It is impossible to know at the present time what the scrutiny innovation will finally be called when the system settles down. For reasons of clarity throughout the pamphlet we refer to overview and scrutiny **committees** as described in the bill and 'the scrutiny function' for the overall role.

There will need to be refinement to the language used to describe the many imaginative methods of exercising accountability described in this paper. Few of our examples typify the common meanings or dictionary definitions of scrutiny, which include to analyse, check, examine, probe, search and study. Effective scrutiny also offers the opportunity to commend good practice, suggest improvements, involve communities, propose policy changes and take a leadership role on issues of significant concern in local areas.

In this pamphlet we use the word **executive** to describe the strategic decision making roles described in the White Paper, whether the local form of this is a mayor, cabinet, political executive or policy committee.



introduction

AIMS OF THIS GUIDE

This guide aims to give practical suggestions to councillors and officers in local government about how to develop effective scrutiny within their authorities. It outlines how scrutiny fits within the whole process of modernising local government, the range of options to be considered and the pitfalls to be avoided. It has been commissioned by the Joseph Rowntree Foundation (JRF) to coincide with local authorities' own deliberations on the Government's proposals for the modernisation of political structures as proposed within the draft bill 'Local Leadership, Local Choice'.

We aim to demonstrate that effective accountability through scrutiny is at the heart of good governance and plays a useful role in encouraging innovation and good practice. We have included as many practical examples from authorities who have been undertaking scrutiny-type activities together with emerging proposals being introduced in response to the draft bill.

Scrutiny is an integral part of the modernisation process and we will be illustrating the links with best value, community leadership and community involvement. The connecting theme throughout is to ensure that councils are rethinking how they are organised to put the citizen's interests first.

The scrutiny role is only one aspect of the representational role of elected members in local government and there is not the scope in this paper to describe or comment on all of them. Another JRF pamphlet entitled, 'New roles for council members' written by Paul Corrigan and Sue Goss covers this area in more and will be published in July 1999.

Q *What is meant by scrutiny?*

Scrutiny is not a mystery - it is a common sense process of review and evaluation. Within a local authority elected members are undertaking scrutiny every time they ask, 'why was that decision taken rather than a different course of action? why did it take so long for that decision to be put into effect or isn't it time that the criteria for accessing this or that service were reviewed?'. Local government is a complex, big business and needs to ensure that scrutiny is organised in a way that will be an effective use of everyone's time.

Scrutiny can mean reviewing the council's own achievements against intentions but also the performance of other public bodies or local issues. The types of scrutiny and the different models that deliver them are described in chapter 4.

The main functions of scrutiny will be:

- monitoring service delivery;
- scrutinising policy outcomes;
- scrutinising and reviewing policies and practices;
- considering the outcome of best value reviews;
- holding executive councillors and chief officers to account;
- submitting reports to policy and resources committee through the executive board in writing, to the scrutiny management committee (for information) and to council if necessary.

Brighton and Hove Council's protocol for the scrutiny process

MODERNISING POLITICAL STRUCTURES AND OVERCOMING CONCERNS ABOUT SCRUTINY

The Government's White Paper 'Modernising Government - In touch with the people' (July 1998) sought the co-operation of local authorities on a number of key themes including:

- increasing community accountability;
- continuous improvement through best value;
- enhanced participation;
- the new ethical framework.


It proposed new models of political management within local authorities, which have generated considerable debate and experimentation.

The draft bill on political modernisation 'Local leadership, local choice' (April 1999) has a change of emphasis from the Modernisation White Paper by emphasising the need for powerful roles for *all* Councillors within the new structures.

Many local authorities that are developing these models started by deciding the shape of the executive and then tried to find satisfying roles for the rest of the members of the council. Effective representative and scrutiny roles are at the heart of ensuring effective implementation of the political modernisation proposals. If the elected member role on scrutiny is approached as an afterthought then it will fail. It is also a mistake to assume that elected members who are not on the executive will only be scrutinising the decisions of the executive. All councillors will be involved in supporting and engaging with the policy shaping process.

Local authorities must debate the agenda spelt out in the White Paper and relate it to their own aspirations for local community governance. The starting point needs to be a thorough debate on the elected members' roles to ensure the council can make decisions in a clear, accountable and focused way. They must be held publicly accountable for those decisions and demonstrate continuous improvement through best value. Then and only then should they address which of the alternative political structures best deliver those objectives.

There is also a danger that the proposed executive - scrutiny split has been taken literally. The relationship needs to be collaborative. They are different roles, but they need to be played within the same team. All elected members will continue to be involved in influencing and shaping policy in a whole range of ways, whether it is through an area management group, representing the council on a partnership board or being a member of a policy advisory group supporting the executive. The executive would drown if it attempted to fulfil all these key roles itself.



chapter 1

how is scrutiny carried out now

Councils should already have internal review processes in place to pursue value for money. All councillors are legally responsible for the delivery of a wide range of services. Each of these services provides something vital to members of the community who need and use them.

Local authority services are nationally important and local government matters hugely to the health of the local economy. In England local government accounts for over £75 billion pounds of public expenditure. On this scale, if there are widespread problems with a service then it is an issue of national importance.

Getting service delivery right matters to members of the public and to the nation as a whole. Councils who fail to provide effective mainstream services will not have the credibility to exercise a broader community governance role.

Of course, not all of this is left to the elected members of a council. Local authorities should have systems of performance management in place at officer level to check that the services are provided to the highest standard. Managers are expected to routinely monitor service standards and take action on the findings within a culture of continuous improvement.

Alongside these local performance management systems the national framework for best value provides a new framework for analysing performance and ensuring that decisions are taken about the way in which services are delivered and organised.

Q *How have members been carrying out this function?*

Most political management of performance reviews in local government has taken place through the committee system. The same committee process is used to make decisions and to monitor how the council is providing its services.

Most committee agendas have a wide variety of different reports appearing on them including:

- recommending strategic policy decisions;
- discussing policy implementation;
- providing information;
- monitoring the delivery of services.

Reports to monitor performance vary enormously but most contain vast amounts of information. Usually they are very difficult to decipher and only if you know what you want to look for in the first place can you use it to find out what is happening.

Most councils have struggled over the years to have effective member control of the performance review process. Whilst there is good practice it takes considerable effort to ensure an effective process. Performance review is frequently delegated to a sub-committee with an enormous range of issues on its agenda ranging

from internal service reviews to external audit and ombudsman reports. Such committees have been reactive rather than proactive. Effective scrutiny requires more than this.

If the monitoring of service delivery through the traditional committee system has been problematic then the systematic review of the effectiveness of policies is even less evident. This is because the same committee is trying to both take a strategic overview, plan specific projects and monitor performance, leading to a blurring of all the issues. The new system of political management will require councils to think carefully about how to make the process much more robust within the executive and the scrutiny function.

The London Borough of Barnet is one local authority who has decided to ensure that the scrutiny function effectively reviews policy as well as service delivery.

London Borough of Barnet Scrutiny Commissions

The proposal is designed to enable the backbench member to:

- hold the administration to account;
- deliver the best value agenda at member level;
- provide effective scrutiny of the outcomes of policy.

LB Barnet has been poor in following up the impact of its policy or practice decisions. There is no systematic study of whether what we said was what we delivered and whether it achieved the claims made for it at the time of introduction. Members tend not to take the information provided to committees in the performance indicator reports very seriously and, far too often, the statistics collected have little relevance to how the public perceive the service and what matters to them, nor does it help managers manage the service better. Some of the indicators appear to have arisen out of a whim of members at committee.

Commission on London Borough of Barnet's future member organisation Nov 1998

The third potential area for scrutiny is the council's role in championing issues of local concern, for example the closure of a local hospital. Arguably councils have been more comfortable with this type of scrutiny than in challenging their own performance.



chapter 2

the national legislative context

The Government's White Paper 'Modernising Local Government: In touch with the People' recommended that local authority decision making structures make a clear distinction between the decision making role of the executive and the scrutiny function. This recommendation is drawn from the view that it is not credible for the same part of the organisation BOTH to make the decisions and to call itself to account for them.

These ideas were translated into a draft bill entitled 'Local Government (Organisation and Standards)' and as a command paper, 'Local Leadership, Local Choice' in March 1999. It sets out a new constitutional framework for local authority decision making. The checks and balances needed in the new constitution will come from the proposed overview, scrutiny and standards committees.

Councils will be required to consult their local communities on the options for new political management structures, whether to go for an elected mayor, a cabinet or a city manager, using the three broad models outlined in the White Paper. Whichever model is chosen the scrutiny process must be an integral part of its functioning.

The legislation will require all the new decision making frameworks adopted by local authorities to have one or more overview or scrutiny committees. The precise form of these is subject to local discretion within the framework outlined below.

In the introduction to 'Local Leadership, Local Choice' the Deputy Prime Minister, Rt Hon John Prescott MP, refers to the changes as a complete overhaul to council structures that have remained virtually unchanged for over 150 years.

'We want councils to move away from their current ways of working which is often obscure and unclear... all of these new forms will be efficient, transparent and accountable. People will know who to praise, who to blame and who to call to account.'

Q *What is the Government intending to achieve?*

They identify the following aims for the scrutiny role:

- to strengthen the representational role;
- to make decision making more visible and accountable;
- to call the executive to account;
- to provide satisfying roles for all councillors.

THE NATIONAL LEGISLATIVE FRAMEWORK FOR SCRUTINY

Whereas the legislation will allow for a council's executive arrangements to be single party, the overview and scrutiny committees must:

- reflect the political balance of the council;
- meet in public (subject to existing access to information rules);
- cover all matters that are the responsibility of the executive;
- review the executive's plans, policies and decisions in accordance with the new constitution of the council.

Membership of the scrutiny / overview function

- councillors who are members of the executive may not be members of any scrutiny committee;
- the councillor who chairs the council may not serve on such a committee;
- representatives of churches (as defined in the Education Act 1996) and parent governors are to be given full voting membership of any committee dealing with education;
- members of the executive are likely to be asked to attend regularly to support both the review of policy and to give evidence to the scrutiny and overview committees, but not to be members of the committee;
- the committees **may be** chaired by a member of the opposition or on education related committees, a church or Parent Teachers Association representative if the council's new constitution provided for it;
- the council **may decide** to invite community representatives to participate in the scrutiny committees as non-voting co-opted members.

What will the role be?

The bill spells out four distinct aspects of the overview and scrutiny committee function. These are so significant we are quoting them in full:

- to consider and investigate broad policy issues and make recommendations to the executive or the council as appropriate;
- consider the budget plans, proposed policy framework and other plans of the executive and make reports and recommendations, including recommendations proposing amendments to the executive or full council as appropriate;
- provide advice to the executive on **major** issues before final decisions are made;
- review decisions taken by the executive and how it is implementing council policy and make reports and recommendations including proposals for changes to policies or practices to the executive or council as appropriate.

Matters for local choice

The Government suggests that the council might choose, ‘forms of local governance allowing their overview and scrutiny committees to request a debate at full council before a particular decision is made or implemented by the Executive’ (par. 3.19).

It will be for the council’s own new constitution to provide for committees to determine what areas of policy they review, in addition to the task of reviewing the executive.

We will be giving examples of the potential ways of undertaking both the scrutiny of executive decision making but also the broader options for scrutiny throughout this document.

Different forms of scrutiny may lend themselves to different methods of review. For example, the executive might involve the scrutiny members in a detailed way on budget deliberations, whereas the scrutiny committee itself might decide on a distinct and more independent approach on another aspect of local policy. The methods of working and timescales for review will also differ depending on the nature of the scrutiny task.

The Government expects there to be many issues where the executive would wish to consult the scrutiny function before proceeding on major issues, although what constitutes ‘major’, beyond the annual budget, is left to local interpretation. The exception is education: where the paper states that an overview and scrutiny committee dealing with education could be expected to be consulted by the executive on the draft education budget and other major policy issues before a particular decision is made or implemented by the executive (par 3.21).

Q *What powers and influence will they have?*

The scope and influence envisaged in 'Local Leadership, Local Choice' for councillors engaged in the scrutiny and overview role is considerable:

- to require members of the executive and council officers to attend their meetings and to invite other individuals and organisations to attend;
- to ask for whatever factual information that they need to do their work;
- to ensure minority representation, including churches and parent governors, who will be able (via standing orders) to get their concerns onto the agenda and fully aired.

The constitution will have to make the relationship between the scrutiny, executive and full council explicit and cover how the following issues are to be reflected in their standing orders:

- how differences between the scrutiny and executive are to be resolved, and at what stage full council becomes involved;
- how minority reports are to be provided for and responded to;
- how to avoid an over-rigid split between executive and scrutiny which supports joined up government, with members of the assembly as a whole providing support for policy development as well as scrutiny.

These issues are to be explored later.



chapter 3

how scrutiny works in the house of commons

In the early 1990s the Commission for Local Democracy (CLD) argued that public discussion in a deliberative manner encourages sounder basis for civic leadership than a behind closed-door policy. They also argued strongly for a clear separation of the executive and assembly roles. Scrutiny was identified as a critical element of the assembly function but far more attention has been subsequently paid to the executive elements of the model than increasing the effectiveness of representation.

The CLD contributors' were also concerned to find ways to scrutinise the 'quango state', namely the large proliferation of non-elected bodies.

An early example of such a scrutiny process was Kirklees Scrutiny Commissions in 1993. These were primarily focused on local issues and the need for other public sector bodies to be brought to account rather than the internal governance role now being introduced.

The best known system of scrutiny is the House of Commons select committee system. Because the term 'cabinet' has been used in local government many people assume that the models being proposed for scrutiny in local government are copying the parliamentary model. This is potentially misleading. There are some interesting parallels to be drawn out, both positive and negative.

LEARNING FROM SELECT COMMITTEES IN THE HOUSE OF COMMONS

Select committees in the House of Commons are distinct from standing committees who consider and comment on legislation. Select committees are committees of inquiry, which mostly proceed by taking evidence and publishing reports on their findings.

The select committee's task is to monitor, 'expenditure, administration and policy of its (parent) department and associated public bodies'. Issues are not referred to the select committee; they choose the areas of their investigation.

Select committees are designed to act as watchdogs over Whitehall departments and as such their scope and shape broadly covers departmental boundaries. However, there is no one select committee that looks at crosscutting issues within central government. This is a weakness compared to the holistic reviews in local government.

MEMBERSHIP

House of Commons select committees reflect the political balance in the House of Commons as a whole and are formally nominated by the committee of selection. The political parties, through the whips office, determine membership.

The chairmanships are broadly allocated in proportion to the political balance in the House of Commons as a whole. With these provisos each has the right to elect its own chair and will have a government majority. There is a tradition of certain select committees having an opposition chair. For example, the Public Accounts Committee has had an opposition chair since the time of Gladstone.

RELEVANCE TO SCRUTINY IN LOCAL GOVERNMENT

In the select committee model there are four vital components for success:

- achieving consensus;
- the role of the chair;
- the perceived neutrality and independence of the clerking role;
- access to independent advice.

The desire for consensus is so strong that the select committees effectively exercise a self-editing role, which may stop them tackling issues where there are profound disagreements between parties. The chair's draft report will be written to encourage ownership from all committee members. Minority reports are seen as a last resort that weaken the impact of the overall report.

The chair has to ensure that the right witnesses are called and that the committee gets a good advance briefing from the clerks to the committee. The chair also needs to ensure that the committee does not attack those giving evidence universally.

The clerk supports the chair of the select committee in drafting the report and ensuring it reflects the widest range of opinion possible. The clerking team is independent of the mainstream civil service with no need to clear reports with the home department.

Each committee also has the right to appoint its own specialist advisers to supply information or advise on complex issues.

POWER AND EFFECTIVENESS

Select committees have no power to make decisions so where does their power and influence lie?

- they can trigger and harness public debate on important issues through collecting disparate evidence and bringing it into the public domain. This approach can be replicated very successfully at local level;
- select committees can sharpen accountability if its inquiries into an issue reveal either that departmental policies are outdated or adhoc;
- the select committee inquiries can float ideas in the public domain and test public opinion in advance of policies being formulated;
- the role of holding government departments to account is taken seriously. It is very rare for the minister to decline a reasonable request to attend or provide information.

Select committees can be very effective if the chair is determined enough to bring issues to public attention. The select committee has no power to require papers but strong persistence is difficult to ignore. Mrs Thatcher discovered this when the Foreign Affairs Select Committee persisted in their enquires into the sinking of the Belgrano in the Falklands war.

MAIN STRENGTHS

- the chair's role striving for consensus;
- liaising with the press;
- independent officer support;
- access to independent advice;
- working to shape decisions and influence policy rather than decision making per se.

MAIN WEAKNESSES


- consensus may weaken accountability;
- often there is no open dialogue. With people appearing as witnesses the process is frequently interrogatory and appears very formal.

POINTS TO CONSIDER FROM THE PARLIAMENTARY MODEL

- how will you overcome the weaknesses of the parliamentary model?;
- will you combine scrutinising polices with issue based scrutiny in the same committee or will you split them?;
- is your scrutiny committee going to mirror existing departmental functions or cover the range of issues to be reviewed in a different way?;
- how are you going to provide staffing support?

Kingston upon Hull City Council are appointing a Speaker. He/she is likely to be from the ruling administration but respected by and acceptable to all parties on the council. He/she will determine the terms of reference for the select committees.

Officer support to the Speaker's office will provide dedicated policy, research and co-ordination support. The Speaker's office is to be headed by the Scrutiny Co-ordinator reporting to the Head of Democratic Support who will ensure that there is effective co-ordination between the three main elements of the new structure, Council, Cabinet and the Scrutiny System.



chapter 4 types of scrutiny

There are many different aspects to the scrutiny process. We have divided these into different categories building on the six types of scrutiny identified in 'New forms of political executive In Local Government' (Clarke, Hall, Stewart and Taylor). These were summarised by Declan Hall as:

- policy review and strategy development;
- proposal review;
- call in and reference on;
- ex-post scrutiny;
- service reviews;
- community leadership through monitoring of other public bodies.

POLICY BASED SCRUTINY

The committee will be **required** to scrutinise:

- the budget proposals of the council, propose strategic policies and other plans coming from the executive;
- provide advice to the executive on major issues (including the annual budget and major education policy areas) before decisions are made.

The committee **may** scrutinise:

- policy issues that are of local significance / concern that may be (but not necessarily be) matters that are the responsibility of the Council;
- council policy issues of concern either to members of the committee or referred to them.

REVIEW BASED SCRUTINY

The committee **must** review:

- retrospective scrutiny of decisions of the political executive;
- scrutiny of service delivery, for example best value reviews (see chapter 6).

The committee **may**:

- decide to undertake reviews of service performance and delivery.

The draft bill when enacted will change the law to create a very clear split between the executive and the scrutiny function in every council. Given the existing law (requiring all decision-making committees to have a proportional membership in relation to membership of council) it is only currently possible to create a clear executive model if there is agreement between the parties on proportionality. Single party executives cannot be full decision making bodies, however scrutiny panels or committees **do not need this change in law**. By their very nature they do not make decisions of an executive nature, but recommend others to do so. Therefore they can, and are being, set up now.

We suggest that those councils who have not yet embarked on a new system to use the time before the bill becomes law to experiment with the scrutiny arrangements, and see what works most effectively in your local situation. Designing the appropriate model for scrutiny is a complex task because no one approach suits every types of scrutiny.

During the transition period there are a number of options

Some councils may decide to focus existing service committees on the executive function and remove the scrutiny role to a new set of scrutiny panels. Other local authorities have already moved to a cabinet model.

North Tyneside Borough Council has already carried out some evaluation of their select committee method of operation. The following points were made by members in that evaluation:

- the recommendations had been achieved by consensus;
- there had been greater opportunity to undertake more detailed analysis and to reach greater insight into the subject area. This was regarded as an improvement on former ways of working;
- the committee agreed that the methods used as a part of the pilot scheme had performed with different methods of success. The visits to comparator authorities had not revealed any additional information and had been the least successful part of the committee's work, indicating that authorities from further afield may have to be utilised in the future.

London Borough of Hammersmith and Fulham resolved that select committee style scrutiny alone would not adequately scrutinise the day to day decision making of the executive.

Their model provides the opportunity for scrutiny of every decision made by the individual cabinet members and the cabinet. Every three weeks all the decisions of the cabinet and its individual members are published to the council and the public. Any two back-bench councillors or ten residents can then call in any decisions and the act of doing so freezes implementation until it has been discussed at the committee of the council, the main scrutiny committee.

The committee of the council, meeting three-weekly, can summon cabinet members, question them and vote to refer back their decisions. Its membership is exclusively back-bench councillors of all parties. The leader of the opposition is the vice chair and the chief scrutineer. Majority group councillors are not whipped except for those few issues that have been discussed and agreed at their full group meeting. The range of issues at any committee can run across the whole range of council services. This 'snapshot' viewing does not allow considered scrutiny over time, area by area. This is provided by scrutiny panels again, entirely comprised of backbenchers: mayoral, education and leisure, environment and regeneration, quality services and value and social inclusion and housing.

The review in **London Borough of Barnet** is based on a system that will operate within existing legislation and the design takes account of the following key principles:

- a distinct separation of members roles in policy development / implementation and the scrutiny of performance. This will enable a more critical and objective review of performance as the implementers will not be reviewers;
- a substantial reduction in bureaucracy and the business coming to committee. Service plans and new policy reports will give the necessary approvals for the implementation process with any subsequent reporting being on an 'exception' basis. Scrutiny will be the method of public control. Delegation will be in consultation with the chair.

Report of the scrutiny commission on LB Barnet council's future member organisation

There is a range of different options:

- overview and scrutiny committees that review proposed policies;
- scrutiny committees that propose policy developments;
- combined models of review, commissioned by the executive e.g. on best value;
- standing scrutiny panels that within a particular policy area hear a wide range of different topics on issues or service reviews;

- scrutiny panels carrying out an investigation over several meetings into an issue of council services based on the select committee model;
- scrutiny panels carrying out an investigation over several meetings into an issue outside of the council;
- issues with an impact inside *and* outside the council e.g. crime and disorder, neighbourhood nuisance, social inclusion.

Norwich City Council

The new structure includes a scrutiny committee in line with the White Paper. The committee will report straight to the full council. However, it is suggested at this stage that a best value working party be set up to implement best value and that this be subsequently replaced with a full scrutiny committee. It may also be appropriate to set up short life scrutiny committees from time to time to deal with specific issues.

P1 Committee paper 13 April 1999


Bedfordshire County Council has established four select committees that report directly to council. They monitor the executive's decision making, the impact of new legislation and other external factors affecting the people of Bedfordshire. The format of the committees is based upon a three-month pilot exercise during the autumn of 1998 when the crime and disorder legislation and its impact on Bedfordshire were assessed and recommendations made.

As with their parliamentary counterparts the select committees interview witnesses and scrutinise decisions before making recommendations. As well as developing new policy initiatives select committee members will review and challenge existing policy. Cllr Philip Hendry (Leader of the Conservative administration) is keen that these new scrutiny committees have the freedom to operate independently.

Bedfordshire's CC select committees, each made up of seven members drawn from all three parties, are:

- life in the community;
- lifetime learning;
- individual well-being;
- resources stewardship.

One is chaired by a Labour member and one has a Liberal Democrat vice chair.



chapter 5 organising choices

There are a number of important organisational choices that must be made when setting up local authority overview and scrutiny committees. From the very beginning of the first overview and scrutiny committee meeting it is imperative that members recognise how different their experience will be from the old service committees. There will not be a continuity of experience.

The new system must be able to review the decisions and proposals of the executive and develop policy initiatives. There needs to be a different approach to the organisation of on-going scrutiny of the executive from one off scrutiny or service reviews, but the following questions are common.

Q *How many panels should there be and how many members should there be?
The options:*

A CONCENTRATED MODEL WITH A SINGLE SCRUTINY COMMITTEE

- if so, will it effectively operate as a shadow cabinet or extend its remit beyond that of the executive and will it have the capacity to undertake all the different forms of scrutiny using the same membership?;
- this could be an overarching committee that monitors the routine business of the executive and appoints separate scrutiny panels on specific topics.

Scrutiny Management Committee

This will co-ordinate and manage the scrutiny process on behalf of the council. It will be composed of non-executive councillors and will be politically balanced. It will meet monthly to consider requests for scrutiny, agree the work programmes of the Scrutiny Boards and receive their findings.

Brighton and Hove Council *Committee paper 14 April*

Scrutiny Boards - up to 36 members

There will be four scrutiny boards each with nine members, politically balanced and drawn from those councillors who are not on the executive board in waiting. The Boards will cover designated areas of interest and will meet to consider and report on their findings. They will have across service remit and are capable between them of covering all council activities.

The main role of the boards will be to hold the executive councillors and the chief officers publicly to account. They will focus on service performance and delivering policy objectives. Their findings would be reported to the Policy and Resources Committee via the executive board in waiting and the Scrutiny Management Committee and in some cases the full Council.

Brighton and Hove Council *Committee Report 14 April*

A RANGE OF SEPARATE OVERVIEW AND SCRUTINY COMMITTEES

- if there are separate scrutiny committees will they match the briefs of the portfolio holders on the executive or the existing departmental structures?;
- should there be standing overview and scrutiny panels to review the main areas of the executive policy function? If the executive members cover the service areas of the council e.g. housing, leisure and environment, then the council may want to have standing committees to investigate the same areas. If the council has its executive members functions based on themes e.g. lifelong learning, then the scrutiny panels could concentrate on the same functions;
- will any part of the overview and scrutiny function be able to set its own work programmes in addition to monitoring the executive?;
- will the terms of reference be set from elsewhere in the council? This could be the overarching select committee described above or the Speaker model;
- authorities who have the cabinet determining the terms of reference of the panels will be in danger of weakening scrutiny.

MEMBERSHIP OF THE OVERVIEW AND SCRUTINY PANEL

Councils will need to decide for themselves the size and membership of the panels. A large panel can draw on a wide range of member interests whilst a smaller panel may be more efficient and less intimidating to witnesses.

Most councils experimenting with scrutiny have encouraged the party groups when nominating candidates to opt for as much self-selection as possible to encourage members' interests and expertise. There are strong arguments for the chair and at least some members of the panels to come from a background where they are not experts, being better able to ask the 'why' and 'what if' questions.

Some councils have started a register of member's expertise that can be called upon depending on the issue under review. Whilst there are many different ways of setting membership there are two main principles to be satisfied.

A CHAIR WHO DOES NOT SERVE ON THE EXECUTIVE

Unless this takes place the executive is not separate or seen to be separate from the scrutiny process. It would be entirely inappropriate for the executive member for housing to chair a select committee studying the housing service.

In the future, when the full split between the executive and the scrutiny function has taken place, both the chair and the membership of the panels should be drawn from members who are not serving on the executive.

CROSS PARTY REPRESENTATION

It is important that membership of scrutiny panels is drawn proportionally from all political parties represented on the council. The government has said it hopes to see experiments in opposition members being the chairs of at least some of the panels. This is already happening in several councils.

PARTY DISCIPLINE WILL NOT GENERALLY APPLY

All members of the panel when they are sitting on overview and scrutiny panels have a responsibility to let party politics take a back seat. This does not mean that elected members will not still have ample opportunity to exercise their political roles elsewhere.

COMMUNITY REPRESENTATION

Representatives of local communities can serve or be co-opted onto the panel beyond their role as witnesses.

Representatives of partner agencies should also be considered. This is particularly important where services are being managed or problems being tackled on a cross-agency basis. In such circumstances inviting the partners as witnesses would be inadequate.

It makes good sense for the chair to ask who else should we involve in our deliberations.

TRIGGERS FOR SCRUTINY

The council's constitution / standing orders will have to decide how scrutiny will be triggered:

- by resolution of the council;
- by a resolution of the co-ordinating body commissioning scrutiny;
- by the executive (N.B. only after legislation comes into effect - many councils are considering using the policy committee pro-tem);
- by a request from the executive, possibly as a shared approach to a best value study.

The day to day systematic monitoring of decisions will probably require a 'call in' process to include officers as well as member decisions.

In **Kingston on Hull** Council chief officers can submit notices of proposed actions that they intend to take under delegated powers and members are given seven days to comment.

Purbeck District Council's new Standing Orders allow a member with the support of one third of those present to have any matter referred by the Council to the Scrutiny and Review Group. To avoid blocking tactics this power can only be used once on an issue.

REPORTING OUTCOMES

You need to decide how scrutiny reports will reach the rest of the council. Since scrutiny committees cannot make any decisions it is vital that scrutiny reports are openly debated with the executive and have a mechanism to be discussed direct at council.

Scrutiny committees that make clear recommendations for the executive to act upon may have more impact. The executive has to respond to each recommendation saying what action, if any they will take. This could then return to the scrutiny process and any disagreements being taken to the full council for final decision.

POLITICAL GROUPS

Most councillors are a part of a political group that has rules about their behaviour. These rules usually involve some aspect of discipline if the elected member decides to publicly act against the party line on a subject. A continual public questioning of this would usually lead to the member leaving the group. These rules have been an important part of the local government political process and have ensured that local authorities can make and keep to important long-term decisions such as the budget.

The scrutiny role cuts across these rules. The whole aim of scrutiny is to question the way in which the council has been operating or to develop new policy. Under these circumstances members of the majority party will have to question the activity of their colleagues on the executive in public. If the group rules stop them from doing this then they cannot carry out that function.

For example when a member of the scrutiny panel is questioning the executive member she or he must feel free to develop a difficult line of questioning without fear of what their political party will say.

Ipswich Borough Council

Members will have the opportunity and appropriate policy / administrative support, to propose policy initiatives independently, largely free from the whipping system and without the artificial constraints imposed by committee cycles and programmes. Ward members will also be able to promote policy through the work of forums or arising from the deliberations of the scrutiny committees.

Labour Group committee paper

When the final report is being drawn up members must feel free to rely on their judgement and the evidence that they have heard rather than any worry about the group rules.

The **Labour Party** will be taking a new set of group rules for local authority Labour groups to its conference in October 1999. These new rules will codify the new culture that will be necessary for a modernised structure to work in local government from January 1999. The Labour Party is carrying out extensive consultation on changing these rules in line with the new arrangements.

Over the summer of 1999 they will be carrying out a number of pilots into developing these new arrangements.

In the meantime the Labour Party NEC has approved the following amendment, which in effect removes all scrutiny procedures from the existing rules.

These rules do not apply to arrangements made by council for the audit and scrutiny of service, equity, efficiency, effectiveness, propriety and policy development.

'In exercising these arrangements every Labour Councillor will need to be clear about the implications of this interim change and be personally committed as individuals to ensuring that public debate where the whip is not applied is carried out in a polite and comradely manner, with due consideration of the implications of discussion and press coverage for other individuals, the Labour party and the Group as a whole.'

Labour Party NEC Action Advice note December 1998

The Association of Liberal Democratic Councillors (ALDC) has published Model Standing Orders for Liberal Democrat Council Groups which will emphasise three main areas where group loyalty is expected to be expressed publicly.

The LGA Liberal Democrat Group Good Practice Guide on New Political Models stresses the party's support for the changes being guided by a desire to ensure openness, multi-party representation, public and officer attendance at meetings and the involvement of all councillors in the decision making process. The guidance does not express a view on the Group whip system per se.

Good Practice Guide No.1. Elected Mayors, Cabinet Committees and other forms of Political Leadership.

Model Standing Orders for Liberal Democrat Council Groups.

We are sure that other political parties are making similar changes.

Many of the authorities experimenting with scrutiny have agreed exemptions from party discipline for the scrutiny function. This will involve a considerable change in political culture and in some places members will be quite reluctant to challenge colleagues on the executive from within the same party.



chapter 6 scrutiny and best value

When deciding how to structure the scrutiny process it is particularly important to link the development of effective scrutiny with the duty of best value and the community planning process.

Councils who have been piloting best value have recognised that a strong political steer and wide political ownership of best value is of profound importance. Councils need to ensure that they do not finalise their future decision making structures without thinking about where best value fits in.

Bradford City Council

With respect to the scrutiny agenda, there was a clear role for members in best value. There are three main aspects to the scrutiny function which members would fulfil:

- scrutinising the decisions of the executive;
- scrutinising service delivery through service reviews;
- looking at other agencies through partnerships.

Scrutiny committees are interested in monitoring the councils' performance as a deliverer of services. This is simultaneously required under the formal duty of best value.

By April 2000 all councils must produce a local performance plan, specifying how they are going to deliver an effective fundamental review of all of their functions over a five-year period. The executive will wish to drive and shape this process and produce the programme of fundamental reviews in consultation and co-operation with the overview and scrutiny function.

The performance plan is intended to be a public document that communicates clearly to local residents the key priorities of the council, how they are being delivered and how progress in achieving improvements in service delivery will be measured. Since it sets out the council's policies it will essentially be the product of the political administration. As such it is one of the clearest ways of holding the Mayor and / or executive to account.

Because the performance plan is such a clear example of a document that has to combine both looking ahead and reviewing past performance, the executive will wish to seek the views of all elected members, especially those serving in a scrutiny capacity about which issues should be reviewed first.

This process can help to determine the scrutiny review programme for the year.

Ask the following questions:

- how are you going to ensure effective political leadership of best value?
- how will you decide the shape of your first local performance plan, which needs to be in place by April 2000?
- what evidence will you be using to decide which services are first in the review programme?
- where will the fundamental service reviews be reported?
- what mechanism have you created or are you intending to create to drive through best value and ensure that there is learning between the different service reviews?
- how will you collate evidence from local residents and businesses about their views on local service delivery performance, the improvements they want to see and their suggestions for different ways of doing things?
- where services have already been externalised how will you be effectively ensuring best value from existing contractors?

Given all the above the council will need to decide where within the scrutiny process the reporting of best value fits in. The following models are all possible and are being discussed.

SERVICE BASED SCRUTINY

Under this model scrutiny committees which match departments (e.g. education or housing) would oversee and consider the fundamental service reviews. The advantages of this model are that it most neatly coalesces with traditional budgetary and service structures and there would be an easy way into the issues. There are many authorities piloting best value who have adopted this option as the easiest and quickest way to start. However this model may well only deliver marginal changes, because thinking is unlikely to challenge the status quo.

ISSUE BASED SCRUTINY

Authorities have adopted thematic approaches to scrutiny. This makes it easier to conduct best value reviews on cross cutting concerns such as 'looked-after children' because the committee framework already exists. Experience from the best value pilots and better value development programme authorities suggests that this approach is most likely to provide a clear citizen focus but may have more difficulty in accumulating data on a particular issue and ensuring that the analysis is deep enough.

Some councils are establishing a single best value scrutiny committee alongside other scrutiny committee. This has the advantage of clarity and high visibility for best value. There is a need, though, to ensure that the committee has sufficient clout and does not duplicate the work being done by other overview committees. Whichever option is adopted the need for a critical external eye and good project co-ordination will be vital.



chapter 7 members' roles in scrutiny panels

The scrutiny function departs from traditional committees in at least four ways:

- members set the agenda;
- the role is separate from decision making;
- the relationship with officers is entirely different;
- the report is prepared in an entirely different way after hearing and debating written and oral evidence.

If members do not take the lead role in developing the overview and scrutiny committee then the model cannot work. From the beginning members and officers have to recognise that this is a very different model of working and a different experience for members. All members need to be prepared for this change.

Many councils are developing protocols for engagement to ensure consistency around basic common guidelines.

Q *Who should chair the committee and what qualities do they need?*

The role of the chair is pivotal to successful scrutiny. She / he needs to be a broker, negotiator and conciliator, ensuring that everyone's contributions are heard and considered. Councils are finding it useful to have a regular meeting between chairs of scrutiny boards to ensure effective co-ordination and avoid gaps and duplication.

Herefordshire County Council

Herefordshire CC has developed a Monitoring and Review Committee. The chair of each committee meets to form a Strategic Monitoring and Review Committee and to act as the collective experience of the Councils scrutiny function. This gives the function a focus to learn from their scrutiny experience. The chair of the strategic monitoring committee sits as an observer with speaking rights in Cabinet, ensuring that communication takes place between the two parts of the Council.

STAGES IN THE PROCESS - MEMBERS' ROLES

The guidance given below has come from work we have done with elected members devising effective processes and the experience of many other councils. There is a routine to the 'old' committee system that is taken for granted until it is not there. Time pressures are a major factor, which will guide how extensive the processes can be. For example, many panels have found themselves so fascinated at what witnesses have to say that they have run out of time.

We are outlining here the steps involved in an in depth scrutiny review. Clearly not all these principles will apply if the committee is being consulted by the executive is an item for decision. The terms of reference and probably the timescales will be set.

THE PROCESS OF AN IN DEPTH OVERVIEW AND SCRUTINY REVIEW

Before the first meeting

It is essential that the chair has been chosen, drafted terms of reference and plays the fullest role in convening that first meeting. Questions to consider:

- is it possible to deal with all the issues that the panel needs to in the time that has been allocated? Does the panel have a realistic date for finishing the work and reporting the findings? Are the meetings too close together or too far apart? Is there a long meeting at the end to provide time to debate the draft report?;
- is the chair sure that the officer support and available expertise will be on hand? Is there an officer independent from the service department? Is there an officer from the service department from whom they can ask for assistance?;
- will sufficient information on the issues be available for the panel by its first meeting?

It would be wise for the chair to have an informal meeting with the responsible officer to discuss these issues.

At the first meeting

The chair must establish not only the direction of the committee but must ensure that a number of early decisions are taken:

- if the scrutiny panel is to carry out a specific study of a topic, the timing of these meetings will not be in the council diary but will have to be established at this first meeting;
- the draft terms of reference need to be developed and agreed. Try to make sure it can recommend practical outcomes. Try asking, 'what matters most to local people?';
- the chair should make clear how the panel will involve witnesses. It is most unhelpful if this becomes a hostile inquisition. Witnesses should be invited as discussants. Members ask questions and pursue a point but there should be no hostility in the process;
- the chair should underline that this is an all party committee that will only work well if all members work together. Most other council experiences are party political and members may be used to snide asides as a part of their public persona;
- the chair must then ensure that there is a full discussion of the sort of evidence that the panel wants to receive.

Northamptonshire County Council's scrutiny panel used a training session to establish the values they wished to work around. They agreed that were that the panels should:

- be independent;
- seek consensus on outcomes whilst recognising political balance;
- be constructive not judgmental;
- be open and transparent.

Between the first meeting and the second meeting

It is important for the chair to remind members and officers how different this panel is from orthodox committees:

- in developing this timetable it is important to ensure that there is time for deliberation by the panel. Before every meeting where witnesses have been called it is important to have half an hour deciding who is going to ask what questions. At this stage the chair needs to ensure that all of the lines of questioning are dealt with;
- the chair must ensure as the panel develops its questioning, that witnesses are not harried or else they will adopt a defensive tone. This is important since the panel will only really work if everyone who comes before it does not experience being attacked;
- it is also important that members toward the end of each meeting have an opportunity to talk through what they have learnt and how they want to develop the ideas in the panel.

At the end of the penultimate meeting

The panel needs to work through the headings of recommendations of the final report. This is not an easy task since members will have heard a great deal of evidence, but it is important between this meeting and the final meeting for the members of the panel to begin to develop their ideas about recommendations.

The final meeting needs to allow for extensive discussion on the recommendations. Before the final meeting the chair and lead officer should meet to begin to draft these final recommendations.

At the final meeting

Members will have to agree final recommendations and how they are to be taken forward.

Anticipating what is necessary for successful outcomes

It is particularly important for the committee's credibility that some tangible outcomes can be achieved. Therefore, a great deal of thought needs to go into how the recommendations are framed with clear proposals for designated officers taking actions forward once approved by the executive or council.

In the autumn of 1998 **London Borough of Lewisham** held a select committee on the future political management of the Council.

The select committee held five open sessions between October 21st and December 3rd. These sessions lasted two or three hours and received written and oral evidence.

- the first sessions gathered information about the potential new models of political management and experiences elsewhere. The first session included an overview of the models of the White Paper and a presentation from an academic expert. This provided a conceptual overview into which later evidence could be fitted;
- the second session looked at national and international comparisons including a visit from a European mayor bringing to life the theoretical issues discussed before;
- the third session received a report from the public consultation exercise including evidence from a community conference drawn from the local citizen's panel and surveys of stakeholders. Some community representatives took part in giving this evidence. This session explored the underlying aims of enhancing democratic accountability and provided evidence of the strong support for change from the local community and of desire for less emphasis on party politics;
- the fourth session took stock of where the committee had reached. It also received a presentation from Lewisham's Chief Executive analysing the implications for change from within the current practice in Lewisham;
- the fifth session received oral evidence from the Minister for Housing and Local Government providing a clear picture of the likely pace of legislation and therefore the timescales over which the council would need to phase in new arrangements;
- the final session involved an away meeting on a Saturday and decided the main themes that would be a part of the recommendations.



chapter 8 officers' roles in scrutiny roles

There are three important differences for officers in working to a scrutiny committee:

- scrutiny committees must be member led and control what happens and what direction the panel will move in;
- officers who provide direct support and advice to the committee must be independent of the management of the department. Members have to feel that they will be advised in a way that will provide the committee with the information that they need even if such information may embarrass some parts of the council;
- whilst the panel is discussing the issues with local people and making sense of the information that is being provided, the officers need to list additional information that looks as if it is required for future meetings. This can be discussed towards the end of the meeting.

The issue of officer advice and neutrality may well need to be part of a protocol on the overall management of the scrutiny, governing relationships and conduct between scrutiny and the rest of the council, and scrutiny and the implications for member and officer roles. Officers supporting the scrutiny role will need to give impartial advice and support to the panels without fearing that it is damaging to their careers or their relationships with other officers. Some officers fear that they will be placed under inappropriate pressure. These fears need to be allayed through the training and development process and the council's code of conduct or specific protocol. It is however important to remember that this will not effect most council officers.

'The great majority of council officers would spend the bulk of their time supporting the executive, delivering local services. A very small group might be asked to support the executive mayor or leader, if there was one, and there would be the need for a small group to support the overview and scrutiny function.' Local leadership, Local choice par. 3.85

London Borough of Lewisham

It is vital that the lead officer assisting the committee should be seen by the committee and the public as independent from the members and officers that they are enquiring into. Of course they may have a designated contact within the relevant department to assist them with information.

In Lewisham's select committee on GCSE results, the lead officer working to the committee was from the Chief Executive's department. However, she had as a part of her team, the ability to call upon a senior officer in the education department, who attended the meetings. The committee knew that the advice they were getting was independent but they also knew that it would be professionally informed.

Some scrutiny committees have found difficulties in obtaining the level and quality of detail they require from officers whose traditional loyalties may have been to the service committee chairs. To quote one tactful report, 'not all services had been able to provide the committee with the same amount of detail'. So there is a need for political and managerial clout to be exercised to ensure that the system gets off to a good start.

ORGANISING OFFICER SUPPORT FOR THE OVERVIEW AND SCRUTINY PROCESS

The support and financial resources needed by the scrutiny function should not be underestimated.

Whatever model is adopted there will be a considerable need for senior administrative support to the chair of the overview and scrutiny role. This includes:

- diary management - the logistics of undertaking a proactive scrutiny role does not fit well within the frameworks of the traditional committee cycle set once a year;
- contacting advisers and witnesses, and circulating them with likely advance questions;
- arranging public advertisement and publicity for the scrutiny programme;
- project managing the recommendations from the scrutiny committee on to the executive and or council;
- designing and maintaining a project management system of follow through i.e. how are the recommendations being implemented?

Some of the ways in which officer support is being provided to councils currently doing scrutiny include:

Dedicated policy officer support / expert advice

- establishing relevant material already held within the council on the particular issue under review;
- contacting national and regional organisations and other authorities on behalf of the committee to identify best practice and make comparisons;
- summarising and analysing material from public surveys undertaken by the committee;
- minuting and arranging meetings;
- preparing reports - styles between councils differ with some expecting officers to do more of the underpinning work than others.

Cardiff City and County Council chose 'Neighbourhood nuisance' as the first issue to be scrutinised in 1998. A public consultation exercise was carried out to identify the key issues and led to crime and safety, antisocial behaviour and disputes between neighbours being identified.

The committee then decided that it would consider further issues in more depth and publish its programme of inquiry in advance. It received evidence from council officers, the police and representatives of landlords and other agencies. This anticipated that individual residents would wish to raise issues and set up a process to deal with this.

The role of officers was to:

- undertake the preliminary research commissioned by the committee to provide the basis for further questions;
- support the chair in promoting the event. The chair invited the public's views by way of a press statement, public notice and radio interview;
- produce a timetable for the inquiry;
- minute the meetings;
- organise a retrospective evaluation of the process.

The post inquiry review revealed the difficulty in encouraging questioning from the public and keeping to the timetable.

Members of scrutiny committees are also likely to need to organise expertise from inside or outside the council and will need to budget for this.

How is this support to be provided?

Even if it is out of the question in many councils for there to be large dedicated teams with a separate career structure, there is a real need to think creatively about how this can be provided.

Some councils have already anticipated the need for dedicated officer posts within the structure.

Bedfordshire County Council, recognising the importance of the select committee function and the necessity for independence, has established four professional policy specific staff for the select committee headed by an Assistant Chief Executive.

Some councils are using special advisers from outside the authority to ensure independence. Devon County Council is establishing a budget for its scrutiny committees to be able to draw on the specific advice they feel they need to do their work effectively. Suffolk County Council has established an external scrutiny panel


comprised of academics, local government commentators, journalists and Members of Parliament to advise them on their political management arrangements.

Other authorities, especially district councils, without policy officers or units are concerned that they do not have the resources to create posts at the centre. The fear has also been expressed that this would potentially lead to an invidious split between officers that could re-run the mistakes of the client and contractor split.

One option, building on some of the good practice emerging from best value reviews, is to team up with other authorities and organise support on a reciprocal peer review basis.

London Borough of Islington scrutiny panels were first set up in 1994. The first three scrutiny panels investigated issues about service delivery in areas of concern within the council.

Staff from within the Chief Executive's department serviced the scrutiny panels. LB Islington had already set up a Quality Unit within that department whose staff were seen as separate from the service delivery departments. Consequently LB Islington already had a group of staff that were seen by members and service departments alike as semi-detached from the rest of the council staff. This was important in providing scrutiny panels with advice that was seen by members as independent from the service departments that the panels were investigating.



chapter 9 getting in touch with the public

The modernisation process is aimed at improving the relationship between local authority and local people. It is easy to forget that this is what matters.

At every stage in this process of change someone needs to always ask the question, 'how will this improve our relationship with the public?'

The changes in political management should clarify who is responsible for what. New forms of political management must be more open than before.

It is therefore a good idea to involve some communications expertise at an early stage in the process.

It is important to try and communicate the reasons for creating your new system to the public. The local newspaper editor needs to understand why the council is making these changes and to become engaged in the process.

London Borough of Barnet - public involvement and area forums

The ways in which individual members of the public can get involved in the decision-making processes of the council are a little confused and can be off-putting to an individual. With the establishment of the scrutiny commissions, the opportunity can be taken to make this process more effective, less bureaucratic and easier for individuals to speak.

THINGS TO REMEMBER

- the meetings must demonstrate that members are in control of the process and are not just responding to previously prepared papers from officers;
- the meetings could take place in a wide variety of community settings and not in the town hall. When the committee is the guest of a community organisation they could play a role in the process;
- think about the layout of the room. Most old committee rooms exclude the public from an 'inner circle'. Ensure this does not happen by perhaps having a horseshoe of member's tables;
- on occasions the committee will be interviewing a witness from outside the local authority and as this may be of interest to other council staff and members, make sure they are invited;
- the culture of the committee must be open and friendly. If committee members become aggressive with each other or a witness then most members of the public will feel this process is not for them. The chair should take pains to ensure that all language is explained to the wider public when it becomes technical or internal;
- at intervals in the proceedings the chair should ask whether members of the public want to ask any questions and if the room is too big make sure that they have a handheld microphone available;

- adequate time will be needed for discussion with the public to be properly managed;
- the local media may become interested in the work of a committee when a particular event is taking place - make sure that they are they are kept informed;
- in most scrutiny committee reports there will be some criticism of past council performance and suggestions for improvement. This could be a significant story for the local media - 'Council criticises itself shock'! Provided you have made the cultural changes necessary to live with internal criticism, this will make a good story for the council and for the local media;
- when an important scrutiny committee has reported and the Council has decided what it will do with the recommendations, you may want to publish the final report with more fanfare than normal. It may be worth publishing the report as a pamphlet.

None of these measures by themselves will suddenly cause huge public re-engagement with local councils. Evidence suggested that scrutiny panels could help local councils exercise their community leadership role more effectively.

Imaginative overview and scrutiny can help to reach those members of communities who do not traditionally get heard, as part of an overall strategy of community involvement.



chapter 10 scrutiny and cultural change

Ensuring that an atmosphere of challenge and constructive inquiry is vital to the success of the scrutiny process.

The experience of the LGMB simulation exercises undertaken in many authorities revealed an atmosphere of negative questioning and interrogation developing, particularly towards officials giving evidence. This has already led to some commentators arguing for protection to be given to officers.

In other authorities members have found it difficult to question officers and members with whom they have a good working relationship.

Local authority members will not be protected by parliamentary privilege to cover their conduct in meetings. In considering the ethical frameworks within local government to be put into place as part of the Local Government bill it will be important to ensure effective good conduct provisions apply to members and officers.

The successful operation of scrutiny committees will need serious cultural change to how members work with each other. If the public feel that a scrutiny committee does not fully enquire how leading councillors carry out their executive function, then the scrutiny system will not work. The same issue applies to officers.

Officers intending to give evidence will be expected to co-operate fully in the enquiries and not to withhold information. Likewise the enquiries need to be conducted in an atmosphere of mutual respect and trust.


OVERCOMING THE DANGERS - SCRUTINY WILL FAIL IF...

- there is reluctance to challenge fellow members turns into officer bashing;
- scrutiny overload is not avoided;
- there is not a co-operative relationship between the overview and scrutiny function and the executive;
- if it results in point scoring between parties or within them.

MAXIMISING THE CHANCES OF SUCCESS

Training and development for members and officers in the skills of constructive enquiry will be vital. This is best provided as part of an induction process, working through the practical issues.

A regular review of progress to review what is working well and not so well is a critical safety valve. This can be done after each major scrutiny review and more systematically as the new political management structure starts to bed down.



chapter 11

conclusions: how will successful scrutiny add to the role of your council?

We are aware that some elected members do not find the scrutiny process an exciting prospect, fearing that they will become marginalised from the mainstream processes of the council.

However, those councillors who have been experimenting with the process have found it an exceptionally challenging and effective process, although not without teething problems.

In particular it has been effective in generating increased understanding of the hidden needs of local communities and creating a voice for the communities themselves to express them. It provides a link between the aspirations of communities and the real structures of the council.

When the chair of the scrutiny committee on the impact of low pay and the abolition of the wages councils reported to the full council meeting in **Kirklees Metropolitan Borough Council** he said that it was the most rewarding work he had done in the council in 25 years of being an elected councillor.

Scrutiny reviews can effectively enhance the council's community leadership role and the championing of issues, much more imaginatively outside the confines of a service committee.

Above all it provides a clear example of councillors carrying out the role that the public elect them for, that is publicly defending the interests of local people. The public wants to see somebody holding the local executive to account - that is what they voted for. Scrutiny provides a real opportunity for council members to re-invigorate local democracy by publicly demonstrating that they have the ability and inclination to publicly hold their colleagues to account.



chapter 12

recommendations to national bodies

A great deal of development and innovation is taking place within the local government scrutiny function. National organisations can help this process and we make these recommendations to them:

- the Local Government Association (LGA) has developed a useful democracy network with a good database on different council's work on democratic renewal. They also publish with the Improvement and Development Agency (IDeA) a series of pamphlets with examples of new political arrangements created by local authorities. It would be immensely useful for local authorities contemplating the development of a scrutiny model if the LGA and the IDeA created an ongoing database of all of these changes as they developed and were evaluated. Since the next two years will be one of innovation and change the more information that is quickly shared, the better the developments will take place;
- the IDeA is developing a modern approach to member training, both regionally and nationally. They could start organising regional learning for all councils who are developing new models of scrutiny to ensure that members get to talk to other members about this role;
- the officer role in this process is new and difficult. The IDeA needs to help in the development of guidelines for how officers work with scrutiny outlining the new responsibilities;
- the Society of Local Authority Chief Executives (SOLACE) could discuss with its members ways in which the Chief Executive, as Head of the Paid Service, will have to be in charge of both the officer and the scrutiny model of change;
- all the political parties are going to have to develop a watching brief on how scrutiny develops since, by definition, it requires their members to be able to be critical of each other in a variety of public settings. This will require change within the political culture;
- given its statutory role in this process, it is premature to expect guidance from the DETR on these issues. It is to be hoped that, by the time the draft guidance is issued, they will draw from considerable local government experience in scrutiny. It is important however, that when this guidance does come, it allows, within some overall principles of scrutiny, locally diverse models to develop. It will also have to recognise that whilst a constitutional split between executive and scrutiny is necessary, some of the ways in which the system articulates will require them to work well together. If they are ever totally in opposition for any period of time, the Council will have grave difficulties in operating;
- given the existence of the Scottish Parliament and the Welsh Assembly, the Scottish and Welsh models are likely to develop in different ways from the English. However, at the moment it looks very likely that their model will include a scrutiny function. It would be useful if the LGA, CoSLA and the WLGA ensured that lessons were being drawn between the experience of the three locations.



references and further reading

Clarke, M, Hall, D., Stewart J, and Taylor F. *New Forms of Political Executive in Local Government - The practical implications explored*, June 1998 Democracy Network

Corrigan P. and Goss S. *Developing New Roles for Members* Joseph Rowntree Foundation and New Local Government Network 1999

Filkin G. et al *Starting to Modernise: The change agenda for local government* Joseph Rowntree Foundation and New Local Government Network 1998

Labour Party NEC Action Advice Note December 1998

Local Government (Organisation and Standards Bill) as a Command Paper in Local Leadership, Local Choice in March 99

The LGA Liberal Democrat Group Good Practice Guide on New Political Models

LGA 1999 *Leading the agenda: case studies of the new political management arrangements*

The Committee System of the House of Commons, February 1998 the House of Commons

Modern Local Government: In Touch with the People DETR July 1998

Slaughter, A. *21st Century Mayors*, Stakeholder. Nov/Dec 1998

Stewart, J (forthcoming) *New Opportunities, Unresolved Issues and Neglected Themes*, IDeA

Stewart J. Greer A, and Hoggett P *The quango state: an alternative approach* CLD report no 10 Feb 95
Commission for Local Democracy reports

Stoker G *Redefining Democracy in Local Democracy and Local Government*: Eds. Lawrence Pratchett and David Wilson CLD LTD 1994

Stoker.G. *The reform of local institutions of democracy: is there a role for the Mayor-Council model?*
Commission for Local Democracy Research Report No.18



Local government is modernising its political structures in response to government proposals outlined in 'Local Leadership, Local Choice'. The most important part of these changes is the development of the split between the executive and the monitoring or scrutiny sides of the Council.

Much of the recent attention has been on the different models of political executive, with particular attention being paid to the executive mayor. Many of these changes cannot come about until the legislation has been passed. However, the development of the scrutiny process can take place without changes in legislation. This pamphlet, drawing on the work being carried out by local authorities across England and Wales, describes the practical ways in which local authorities can develop their scrutiny functions.

JR
JOSEPH
ROWNTREE
FOUNDATION

New Local Government
 **Network**