

Overview and Scrutiny Briefing Note

Introduction – the legislation

Scrutiny arrangements were introduced in the Local Government Act 2000 as part of the modernisation agenda. It included the following requirements for the scrutiny function within district authorities:

- Scrutiny must be given powers to review or scrutinise decisions or action taken and to make reports/recommendations on actions/decisions taken by the executive or other bodies. These powers do not solely have to be used for functions of the Executive
- Call-in decisions made by the Executive or individual members of the Executive
- Scrutiny committees must be politically balanced. Non-councillors (co-optees) can sit on scrutiny committees but not vote. Church and parent governor representatives can vote at committee so long as the committee includes jurisdiction for education.
- Scrutiny must be completely separate from the Executive. Committees can require Executive Members and officers to attend meetings. Representatives from partner organisations may be invited but cannot be required to attend.

The role of Scrutiny was broadened with the Police and Justices Act 2006 and the Crime and Disorder (Overview and Scrutiny) Regulations 2009. This placed a duty on local authorities to establish a crime and disorder scrutiny committee to look at crime and disorder issues.

It is anticipated that the Localism bill will clarify and strengthen the powers of scrutiny.

Scrutiny was designed for the following purposes:

- To exercise public accountability
- Keep a check on powerful Executives
- Improve public services
- Represent the voice of the public
- Provide a meaningful role for non-executive councillors

Four Principles of Good Scrutiny

1. Provides critical friend challenge to executive policy makers and decision makers
 - Constructive, robust and purposeful challenge
 - Non-aggressive to create optimum conditions for investigative evidence based process
2. Enables the voice and concerns of the public

- Meetings conducted in public which invite public participation
 - Innovative public communication, consultation and feedback
3. Carried out by independent minded councillors
 - Councillors actively engage in the scrutiny function to drive improvement
 - Areas are reviewed in an apolitical atmosphere
 4. Drives improvement in public services
 - Promotes community well-being and improves the quality of life
 - Strategic review of corporate policies, plans, performance and budgets

Working practices

Scrutiny should be member-led, with any member able to put an item on the agenda for a meeting. The overall working structure for the Committee should revolve around a work programme, ideally set at the beginning of the year and updated on an ongoing basis to reflect new and changing issues.

When a work programme is put together, it is helpful to include some time frames and have a clear idea of the desired outcome.

Members can use a variety of mediums to consider issues including full meetings, working groups and scrutiny reviews. The key to good scrutiny is gathering evidence to make informed recommendations. The method chosen should be dictated by the topic and the desired outcomes.

When there are competing issues, the Committee must prioritise what it looks at. Some councils have a list of criteria to help scrutiny members prioritise topics, looking at issues including has the issue been raised by members of the public, is there a high level of user satisfaction/dissatisfaction with a service, whether there is high level of budgetary commitment, if it falls within the council's priorities or whether there has been any new government guidance and legislation.

Scrutiny Arrangements – South Kesteven

Part 2, Article 6 of the district council's constitution provides terms of reference for the scrutiny committee. It is attached at appendix A of this briefing note.

Arrangements in South Kesteven have seen the separation of pre-decision and post-decision scrutiny. Any pre-decision scrutiny and policy development is undertaken by one of the three policy development groups (Resources, Engagement or Communities). All other aspects of scrutiny – post-decision scrutiny, call-in, performance management, scrutiny of external agencies, etc. are the responsibility of the Scrutiny Committee.

Conclusion

Good scrutiny can assist the council in delivering high quality services that are used and valued by our communities, and that deliver value for money. Scrutiny also

provides opportunities for Councillors to challenge external bodies about the work they are doing. When used properly, scrutiny should have a significant impact in bringing about the best outcomes for our communities.

SOUTH KESTEVEN DISTRICT COUNCIL CONSTITUTION

ARTICLE 6 – SCRUTINY COMMITTEE

6.1 Scrutiny - Introduction

- (i) The scrutiny function is central to this Constitution. The Scrutiny Committee meets in public (except in the case of an exempt item) to review and scrutinise the performance of the Council and can also hold the Cabinet to account for its actions. It has a key role in considering other matters of local concern.
- (ii) In respect of its duty under the crime and disorder legislation, the Committee may co-opt additional members to serve on the Committee in accordance with Section 3 of the Crime and Disorder (Overview and Scrutiny) Regulations 2009.^{09/09}

6.2 Terms of Reference of the Scrutiny Committee

- (i) The Council will appoint a Scrutiny Committee to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000.
- (ii) The Committee will also discharge the functions of Section 19 of the Police Justices Act 2006 and the Crime and Disorder (Overview and Scrutiny) Regulations 2009.^{09/09}

6.3 General Role

Within its terms of reference, the Scrutiny Committee will:-

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) make reports and/or recommendations to the Council and/or the Cabinet and/or any joint or area committee in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants; and
- (iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet and/or any area committee.
- (v) To consider Councillor Calls for Action.^{06/09}

6.4 Specific functions

The Scrutiny Committee may:-

- (i) review and scrutinise the decisions made by and performance of the Cabinet and/or Committees and Council officers both in relation to individual decisions;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question members of the Cabinet and/or Committees and appropriate officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public service bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee, and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with their consent).
- (vii) members of the Scrutiny Committee should channel enquiries for scrutiny information and support via democratic support officers
- (viii) shall meet to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions as the committee considers appropriate but no less than once in every twelve month period. .^{09/09}
- (ix) The Scrutiny Committee may co-opt additional members from those persons and bodies who are responsible authorities within the meaning of Section 5 of the Crime and Disorder Act 1998, and from those persons and bodies with whom the responsible authorities have a duty to co-operate under Section 5(2) of that Act (the "co-operating persons and bodies") subject to the provisions set out in that regulation. .^{09/09}

6.4.1 Finance

The Scrutiny Committee may exercise overall responsibility for the finances for the provision of democratic services made available to them in order to perform their scrutiny function.

6.4.2 Annual Report

The Scrutiny Committee must report annually to the Council meeting on its workings.

6.5 Proceedings of the Scrutiny Committee

The Scrutiny Committee will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.