

EXTRACT OF STATUTORY GUIDANCE SHOWING CHANGES RELATING TO OVERVIEW AND SCRUTINY COMMITTEES - TAKING INTO ACCOUNT THE VIEWS OF THE PUBLIC

Status of this guidance

11.1 **This is statutory guidance issued under section 62(4) and (5) of the Local Government (Wales) Measure 2011 (the Measure). A local authority and an overview and scrutiny committee must have regard to this guidance in complying with their obligations under section 62 'Taking into account the views of the public'. This guidance replaces previous guidance on this matter issued in 2012.**

Purpose of this guidance

11.2 The guidance is intended to provide practical advice to local authorities and overview and scrutiny committees as to how to comply with the requirements set out in section 62 of the Measure. This guidance relates to all overview and scrutiny committees and their sub-Committees, and to any joint overview and scrutiny committees and sub-Committees of joint overview and scrutiny committees (referred to in the legislation as "relevant overview and scrutiny committees").

Background

11.4 Engaging the public more deeply in scrutiny activity may be regarded as a hallmark of healthy democracy. Better communication about local decision-making processes and greater representative participation will help ensure more direct experiences of community life inform strategic thinking and operational practice. **It is also an important element of the council being able to demonstrate it is complying with the duty in section 39 of the Local Government and Elections (Wales) Act 2021 (the 2021 Act) to encourage local people to participate in decision making. The arrangements for taking into account the views of the public in the scrutiny process should be set out in the strategy on encouraging participation required by section 40 of the 2021 Act.**

Raising public awareness about scrutiny

11.7 To enable the public to effectively engage with overview and scrutiny committees, the Welsh Government considers people should first be informed about their council's scrutiny function and programmes of planned work.

11.8 As such, overview and scrutiny committees are expected to make strong efforts to raise public awareness about their role and function, including how people and communities can help shape and contribute to the delivery of scrutiny committee forward work programmes (FWP). **This should also be included and publicised in the council's strategy on encouraging participation required by section 40 of the 2021 Act.**

11.9 Several principal councils have already developed good quality websites which inform members of the public about the way in which decisions are made by a local authority and how people may engage in the work of overview and scrutiny committees. **This should also form part of the guide to the constitution required to be published**

electronically and kept up to date under section 37 of the Local Government Act 2000.

11.10 There should be clear reference to overview and scrutiny on the council's website with easy links to meeting schedules and documentation required by Part VA of the Local Government Act 1972.

Public Engagement

11.11 The Welsh Government considers public engagement in scrutiny is vital in improving the design and delivery of local services from a citizen-perspective. Input from a range of stakeholders can assist in understanding the complexities that often characterise social problems and scrutiny committees can play an important role in gathering necessary intelligence.

11.12 In formulating their arrangements for taking in to account the views of the public councils must have regard to their statutory duties in relation to equalities, including the public sector socio-economic duty and the Welsh language. Arrangements must facilitate and support the ability for people and communities from all backgrounds and protected characteristics to be able to engage constructively and easily with scrutiny.

11.13 It is recommended that local authorities develop internal mechanisms to better enable all members of the public engage in scrutiny activity. Such mechanisms should take accessibility into account and may include the following:

- Request that an item be placed on an agenda for consideration by an overview and scrutiny committee (providing this is of immediate relevance to a topic included on its FWP);
- Submit evidence (oral or written) to a planned or ongoing scrutiny review or investigation;
- Participate as a co-opted Member;
- Submit evidence (oral or written) relating to a Call-In of an Executive decision.

11.14 Arrangements may take the form of public speaking arrangements in some cases, or developing reports summarising written submissions in others. **Committees should take the preferences of the member or member of the public concerned into account. It is recognised that safeguards may need to be built into processes to protect against committees being lobbied in potentially vexatious ways.** Overview and scrutiny committees may still refuse public requests to include particular items on their agendas but in doing so should produce a clear rationale to account for their decision.

11.15 This rationale could link to criteria that committees will have developed in formulating their overview and scrutiny committees' FWPs. Committees should explain why they may refuse to consider a public request for scrutiny or to exclude particular information from their investigative work.

Publication of forward work programmes

11.20 The timely publication and regular updating of forward work programmes of overview and scrutiny committees is essential in facilitating meaningful engagement from the public in scrutiny. This should again be included in the

council's strategy on encouraging participation in decision making published under section 40 of the 2021 Act.

11.21 It is expected that scrutiny committees publish details of their annual FWP on the council's webpages in a clearly signposted section of the website dedicated to scrutiny.

11.22 To encourage greater collaboration between local authorities in the undertaking of joint scrutiny, it is recommended that overview and scrutiny committees FWPs be published near the start of the municipal year. This will allow such committees to better co-ordinate planned activity with relevant councils and other public sector agencies.

11.23 In addition, in order to stimulate interest within existing community networks and representative groups, relevant overview and scrutiny committees should consider sending copies of their FWP to the following:

- Local voluntary sector organisations;
- Police and Crime Panels;
- Fire and Rescue Authorities;
- Youth Councils;
- National Parks;
- Town and Community Councils.

11.24 It is recommended that this take place at the start of the FWP period and make clear that the FWPs of overview and scrutiny committees are flexible and may change according to local priorities. In addition, local authorities may wish to consider containing information in the FWP about how members of the public may assist in developing and delivering overview and scrutiny committees' FWPs.

Public Engagement and Call-In

11.25 In respect of decisions of a council's executive which have been called-in the local authority may wish to develop public speaking arrangements specifically for these occasions.

11.26 Where the subject matter under consideration is not confidential or exempt, such arrangements could recognise the time-limited nature of call-ins by giving the Chair discretion to allow public speakers to provide information and also respond to information presented during the course of discussion. The Chair may be given discretion to allow for multiple representations to be made at a Call-In meeting to allow for different public perspectives to inform the Committee's deliberations.

11.27 The Chair could also have the discretion to stop a speaker at any time in proceedings if in their view a speaker is making comments that are, or appear to be, defamatory, vexatious, discriminatory or offensive.