

6.0 Arrangements for Securing Effective Overview and Scrutiny

Status of this Guidance

6.1 This guidance is statutory guidance issued under section 38 of the Local Government Act 2000. A county or county borough council, elected mayor or an executive leader must have regard to it. It replaces previous guidance issued in 2012.

Purpose of this Guidance

6.2 The purpose of this guidance is to ensure councils have effective scrutiny arrangements and that procedures are in place to regularly review and seek to improve the effectiveness of those arrangements.

Policy Intent

6.3 Overview and scrutiny is an essential element of the political and general governance of the council. The council and executive culture should be open to and supportive of scrutiny and scrutiny should be provided with staff and resources to enable it to effectively undertake its functions, including holding the council executive to account.

6.4 It is recognised that difficult decisions will always have to be made in relation to council finances but the overriding principle should be that investment in scrutiny also contributes to better services for local people by providing another channel for people to be involved in the decisions that affect them and driving a culture of learning and improvement across the council as whole. This principle should be considered in light of sections 39 to 41 of the Local Government and Elections Act 2021 (the 2021 Act) in terms of the duty to encourage local people to participate on decision making and prepare a strategy on encouraging participation and the duty on a principal council to keep its performance under review, including the conduct of its self and panel assessments and consulting local people as part of that duty as required by sections 89 and 90 of the 2021 Act.

6.5 Effective scrutiny of collaborative arrangements with other councils such as joint committees and corporate joint committees and cross public service partnership arrangements - such as public service boards must be viewed as essential in ensuring that those arrangements are democratically accountable to local people.

Processes and Relationships

- 6.6 To achieve the policy intent scrutiny should not sit aside from other processes which form part of the council's governance system. Arrangements for overview and scrutiny should be set out clearly in the council's constitution and constitution guide required by section 37 of the Local Government Act 2000.**
- 6.7 Scrutiny should be an integral part of the council's self-assessment under Part 6 of the Local Government and Elections (Wales) Act 2021 (the 2021 Act) and should also be considered when the council arranges its panel assessment.**
- 6.8 The role scrutiny plays in involving local people to participate in decision making under section 39 of the 2021 Act should be set out in the strategy the council must prepare and consult upon in sections 40 and 41.**
- 6.9 Scrutiny chairs should have good working relationships with each other and regularly discuss approaches to scrutiny and learn from the work of other scrutiny committees within the council and in other councils. Scrutiny chairs should also establish good working relationships with the chair of the governance and audit committee and the standards committee, as well as the chair or presiding member of the council and the chairs of other committees. They should also foster good working relationships with internal and external auditors and with regulators.**
- 6.10 The effectiveness of scrutiny is in part dependent on mutual respect between those charged with scrutiny of the executive and the executive itself. Chairs should therefore develop constructive working relationships with the council's executive in particular, the leader, cabinet members, chief executive and senior officials. The council's executive are required to reciprocate this approach to constructive working under statutory guidance also issued under section 38 of the Local Government Act 2000.**

Effective Working

- 6.11 All scrutiny committees should adopt the most effective ways of working to ensure they are able to fulfil their role. This may include:**
- The consideration of matters as part of a multi-item committee agenda. Here, councils should ensure the number of items on a single agenda does not make it difficult for members to consider the matter in question in depth;**
 - The consideration of matters at a single-item committee agenda. This provides more flexibility around approach, involving panels of witnesses, and potentially some public participation. One off "challenge panels" can be a proportionate and effective way to dig into a topic;**

- **Task and finish groups.** “Task and finish” groups are small, informal groups of members, commissioned by a committee to investigate a topic and to report back. Task and finish groups are not subject to rules about the meeting of committees, because they are informal bodies;
- **The convening of a short task and finish group.** A group that meets only a couple of times over a few weeks will be able to tackle a narrow, defined subject. It is likely to be possible for a review to be commissioned, and then to report back to the next meeting of the same committee; and
- **The convening of a longer task and finish group.** The “traditional” task and finish group model is for a body that meets multiple times over several months, building a comprehensive evidence base.

6.12 The commissioning of task and finish groups, where it happens, should involve the agreement of a scope, setting out the terms of reference of the group and the timescale for carrying out its work.

6.13 Task and finish groups can meet either in private, or in public. When they have completed their work, task and finish groups should submit a report and recommendations to the committee that has commissioned them. This should also include some record of the proceedings of the group (including information on where, and from whom, evidence has been gathered), particularly if the group has met in private. The committee can then decide to adopt the recommendations, submitting them to the council’s executive or another body for a response.

6.14 All ways of working demand careful planning. Councils should, in programming work, consider in some detail the scope of a topic and how it should be considered so as to maximise its impact. In some cases this may involve councillors’ meetings beforehand, either in private or in public, to discuss questioning strategy, or otherwise meeting to plan scrutiny work. Resourcing arrangements for scrutiny should take into account the necessity for officer support for this planning activity.

Resourcing and Information

6.15 To be effective scrutiny must be resourced and have access to officers dedicated to supporting scrutiny committees to plan, manage and execute their work programmes. Officers not directly supporting scrutiny should be mindful that their employment is with the council and not the executive, they should therefore provide scrutiny committees with support and information in a constructive and timely manner to assist their work. This may sometimes present challenges for officers but members of scrutiny committees and members of the executive should also be mindful of these conflicts and these matters should be

considered when protocols are developed governing the relationships between officers and members for inclusion in the council's constitution.

6.16 Section 65 of the Local Government and Elections (Wales) Act 2021 amended section 22(10) of the Local Government Act 2000 which provides Welsh Ministers with a power to make regulations which include provision for or in connection with requiring prescribed information about prescribed decisions made in connection with the discharge of functions which are the responsibility of a local authority executive to be made available to members of the public or members of the authority to include an overview and scrutiny committee of the authority or a sub-committee of such a committee. This is intended to convey the seriousness which Welsh Ministers attach to effective co-operation and information sharing between the executive and scrutiny and its place at the heart of the good and effective governance of the council.

Reviewing Scrutiny

6.17 Effective scrutiny is itself open to regular review and arrangements should be put in place for this to take place as part of the council's self-assessment processes. Peer review is also a good way to review effectiveness and learn from the experience of other scrutineers.