

Committee on Standards in Public Life
Local Leadership and Public Trust: Openness and Accountability in
Local and London Government

Submission by the London Scrutiny Officer Network

Introduction

The London Scrutiny Officer Network is an informal network of officers supporting scrutiny members. By our calculation there are approximately 1,861 councillors in London. Of this number approximately 1,500 are non-executive councillors and many of this group will have experienced taking part in overview and scrutiny. It is in our wealth of collective support to this large number of elected councillors on the ground that we draw upon in formulating our response to the issues posed by the Committee.

The Officer Network has been meeting for the past nine years and its role is in brief to:

- Share best practice and exchange ideas;
- Help build capacity of scrutiny officers and members through learning and development activity;
- Provide practitioner-to-practitioner, peer support;
- Work with and support members in promoting and championing scrutiny across London and nationally.

As practitioners, officers of the Network represent the variety of scrutiny support arrangements across local government. The officer support ranges from dedicated scrutiny officers, to officers who support both policy and scrutiny or democratic services and scrutiny, across a range of salary grades (assistant chief officer to more junior positions). The experience of supporting scrutiny members ranges from 10 years to recent appointments as well as those who have helped to build the architecture and culture of scrutiny and contribute to the development of successful scrutiny in their boroughs.

This collective depth and breadth of experience has seen the very best of support for the overview and scrutiny function as well as organisational obstruction and hurdles. These range from strong and mature leadership which is open to challenge and 'quiet' support at best, to questioning the right of scrutiny to 'scrutinise' and providing key information too late for scrutiny to make any meaningful impact. – Thus preventing the scrutiny function working effectively.

Before we comment on the questions posed, we would like the Committee to note that the views expressed in this submission are those of individual scrutiny officers working in London, based on their experience and **not** of their councils or their members.

We recognise very clearly the issues for discussion presented in the Committee's paper, as these are recurring themes, which have featured in the

Officer Network's discussion for the past nine years. These issues, and other related ones, are the challenges that local government scrutineers face in their shared desire with executives to achieve successful, high performing and responsive councils through better decision making.

To summarise some of the key points in our submission:

1. There must be a senior dedicated scrutiny officer lead/champion.
2. There must be dedicated resources – that is both scrutiny officers and a budget to bring in independent external expertise as and when required.
3. We agree with the Centre for Public Scrutiny that a culture of scrutiny needs to be considered in the context of a culture of governance.
4. It should be simply made clear that overview and scrutiny can scrutinise any body that is in receipt of public funds (the suggestion of the Centre for Public Scrutiny is of all public bodies as so defined by the Data Protection Act), and that they have a duty to co-operate in providing information, responding to reports, and requests to attend public meetings.
5. Scrutiny should have the power of referral to the relevant Secretary of State for any matter.

If these steps were implemented we believe based on the experience of scrutiny in many different authorities, would tackle many of the problems with the current model.

Health scrutiny is the model for our (and the CfPS) proposals. Scrutiny has shown that it uses its powers responsibly. With the extension to other public bodies it would give Scrutiny depth and strength and it would tackle an issue that the Committee is concerned about i.e. backbench member motivation. Scrutiny will be seen as a much more attractive alternative to sitting on the Executive.

It would make accountability clear for the public and for the partners and all those in receipt of public money. Even if health scrutiny powers are not known to the public, the NHS is more democratically accountable thanks to scrutiny members knowing and using their powers on behalf of their residents. We believe the Committee is right in saying that the public don't understand partnerships, delivery agencies, different funding streams etc. but they do understand outcomes. Scrutiny has the potential to cut through the confusion and bring the right people to the table to look at outcomes.

We are pleased to provide this submission to the Committee on Standards in Public Life inquiry into Local Leadership and Public Trust: Openness and Accountability in Local and London Government and would be very pleased to meet with the Committee if considered appropriate.

This submission compliments the written evidence provided by the Centre for Public Scrutiny.

Issue 2 Local government: leadership and decision making

What are the key elements of an effective accountability framework for local government, and how well do the current arrangements work in practice?

Firstly we want to say – and the Committee will be well aware of this – that the public appetite for good corporate governance is unmistakable – even if the vast majority of people don't understand the word 'governance'¹ and are not interested in the technicalities of governance structures. Good corporate governance is the very least that the public expects – which is, those that are responsible for handling public money are held fully accountable for the use of that money.

We agree with and endorse the CfPS assertion that an effective check and balance system requires accountability framework to be rooted in good governance systems operating in an environment of *“Mutual trust and respect between a robust scrutiny function and decisive, but open, leadership is key to this framework.”*

Or to put it another way, how can good governance operate in practice and how can the architecture of accountability support this?

Answerability and enforceability are key dimensions of accountability and real accountability suggests some form of exercise of power (as distinct from executive power but real power nevertheless) – either through the ballot box or through overview and scrutiny arrangements. It's important also to consider the role that the press and media, external inspection and review and complaints process play in both ensuring and delivering local accountability through the formal structures of overview and scrutiny.

The *spirit* of the 2000 Act needs to be spelt out clearly to leaders within local government. Leadership is key. Despite increased valuing and appreciation of the scrutiny role, it is our collective experience that some members of the senior management community find it difficult to accept that OSCs can review, examine whatsoever they wish as set out in the 2000 Act and subsequent legislation – within the council and within the area. As you yourselves will know, the very senior managers (along with the political leadership) are key as they set the tone and unspoken rules for how internal challenge through scrutiny is valued, perceived and responded to within their authority.

The exemplar legislative model and framework for accountability that is often highlighted by the LSN is that of health accountability as set out by the Health and Social Care Act 2001.

¹ See the LGA list of public sector jargon:
<http://www.lga.gov.uk/lga/core/page.do?pageld=1716341>

The key dimensions and sanctions are clearly set out in this Act, and as a consequence, all parties understand their rights, powers and duties in ensuring that their health partners are held to account for their proposals, plans and decisions. The sanction to refer to the Secretary of State is a powerful tool and our experience shows that health decision makers are more likely to inform, consult early with local overview and scrutiny committees and patient and public fora to address local needs and resolve issues of concern. Also, representative groups of patients and public alike (and individuals) have made effective representation to scrutiny committees to challenge health agencies consultation processes and outcomes of consultations. For example in Hounslow it has led to the relocation of the First Care Medical Practice, additional funds being put into CAMHS, or the example of Chase Farm Hospital in Enfield or the 'night scene' in Croydon.

This has impacted positively on the local architecture of accountability and culture for encouraging greater openness and transparency.

The framework presented in CfPS's submission further develops this architecture and we feel would address the key elements for effective accountability as set out in reviews and discussions of the role of non executive directors – albeit for private companies – but relevant and applicable to local government non-executive councillors (Cadbury Report 1992 and Higgs Review 2003).

We have observed that modern and complex decision-making in local government (joint commissioning, PFI schemes, sub area partnerships, etc) has given the impression to local residents that their elected councillors are proactively filling the accountability 'gap'. Residents and the local community have placed an expectation of accountability being delivered on their behalf by scrutiny members. It is therefore important that: 1) the council recognises the authority of scrutiny; 2) that scrutiny members can scrutinise key decisions earlier and are enabled to get involved by having access to key information sooner; and 3) that there is support for a culture of challenge.

In light of recent events in the private sector, banking crisis and Baby 'P', there has been much discussion about accountability, duty to report and objective consideration of information relating to risks and performance in a culture and environment of openness and transparency. These 'elements' of accountability need strengthening and reconsideration in light of the changing regulatory and inspection regimes for local government, increased partnership working and commissioning and contracting with the private sector.

In respect of safeguarding children we feel that an opportunity has been missed by Lord Laming to consider the role of scrutiny members in holding the council and partners' executive, senior management and safeguarding boards to account. Although it is understandable that Lord Laming's attention has rightly focused on the executive and officers, equal attention needs to be given to the role of scrutiny members. There does need to be discussion about how best scrutiny members can review strategic policy, practice and outcomes. In our experience scrutiny is well placed to provide a rigorous (but

supportive) internal review process, which respects the service sensitivities and confidentiality in the context of openness and accountability.

Increasingly those from outside local government, be they residents, voluntary organisation partners or other agencies expect non-executive councillors to fill this 'void.' As a result of our scrutiny work and in supporting scrutiny members, experience shows the local community exercise their stake in local government decision-making in this way and are able to give a view on the quality of the 'goods and services' they receive.

It is our experience that through proactively disclosing information and ensuring that a willingness to be accountable for policies, councils, other public bodies and partnerships can open the way for residents' and local communities' participation in policymaking, evaluation and outcomes so that the ideas and opinions of local people inform key decisions on spend and service design for example.

Where overview and scrutiny works well it is a highly effective internal safety valve. One which is able to recognise and deal with contentious issues within the locality and work towards resolving these, often across organisational boundaries. Scrutiny work in Southwark (planning/night club/licensing), Newham (arms fair in the borough), Hounslow (leaseholder charges, allotments, system of choice-based lettings) was controversial but dealt with through a neutral, evidence-based approach and thus assisted in managing the council's reputation.

It is a significant impediment to fulfilling scrutiny's potential that far too often members are not *trusted* by their authorities – either Executive members, party group leaders or officers to look at issues deemed too sensitive. This could be because vulnerable individuals or groups are involved, or it could be because there are major commercial issues, or that key partners are involved and scrutiny should not rock the boat and upset them. This is despite excellent scrutiny work in many authorities on contentious issues.

How should effective scrutiny be judged, and to what extent do current measures lead to effective scrutiny?

This is an interesting question. Overview and Scrutiny is a function led by its Members, whose effectiveness is 'judged' by local residents at the time of an election. There is little or no evidence, however, for anyone having stood for office on an 'overview and scrutiny' platform. Nor for anyone having voted on the basis of insufficiently robust governance. The reasons for this are manifold, not least due to the relative youth of the function and its profile amongst the wider public.

That is not to say that such direct 'judgement' is unlikely ever to happen, particularly if the reputation of overview and scrutiny continues to improve. Nevertheless, it could be argued that the electorate is not currently the most instructive indicator of the function's effectiveness.

However, people do vote for good governance and effective scrutiny even if they do not call it that. For example at national level Martin Bell and at local level residents groups standing as independents. Equally 'individuals' belonging to a political group are re-elected irrespective of party or the group as local voters feel that these individuals have effectively raised concerns and championed issues on their behalf.

Local authorities have debated the way in which scrutiny should be judged ad infinitum over the eight years since its introduction. Many councils have developed interesting approaches to this which complement and build-on the lead provided by organisations such as the Centre for Public Scrutiny. The Committee will no doubt have heard many of these.

At an operational level a common method of judging and measuring effectiveness is once a review is completed all those who participated are written to – members of the public, local organisations, national bodies, elected Members, supporting officers, etc. – to seek their views on the process. Participants are asked questions such as:

- Was the purpose of the review sufficiently clear?
- Did the review meet its expectations?
- Did you have adequate opportunity to express your view?
- Were your views taken into account fairly?
- Do you support the conclusions and recommendations?

The responses are collated and reported to the main Overview and Scrutiny Committee/Board every six months. This enables senior Members to self-assess progress for a major part of the function's work and to inform its approach to the planning and conduct of future reviews. All of this 'judging' is done in public, by those with experience of the function, and is recorded as part of the public record.

A more structural approach looks at strategic impact by looking beyond the immediate function at the council. So, is there a culture of political maturity embedded throughout the organisation, which encourages effective scrutiny?

A key facet of delivering effective scrutiny in order to ensure strategic impact is all about managing relationships. It is the way and means by which politically mature politicians (non executive) and scrutiny officers carry out their business in

- Seeking and reviewing evidence;
- Inviting (which) people to give evidence;
- Engaging the community;
- Highlighting and facing dilemmas, difficult users and decisions;
- Enabling an airing of contentious issues.

In this approach key questions that are asked are

- Has there been an improvement in service?

- Has there been a reduction in waste, inefficiency?
- Has there been an investment, realignment of resources?
- How many recommendations have been accepted (at least 70% of the recommendations accepted is common)?
- What is the number of call-ins?
- How many reviews were initiated at the suggestion of the public?
- How many members of the public attended meetings?
- Is there public awareness of overview and scrutiny?
- Has the local press, media highlighted scrutiny work?
- What comments have external inspection review made about scrutiny?
- Has there been an independent review of the function?
- Is there a balance of cross party chairs?

In addition is there a dedicated scrutiny team headed up by a senior officer?

Clearly this is not an outcome measure but can say so much about the value the organisation places on supporting scrutiny and non-executive councillors.

We would also wish to say to the Committee that an external judgement about poor scrutiny is a spur to improve scrutiny in an area.

Scrutiny is also a training ground for members and officers. For many officers (non scrutiny) it is their first experience of engaging with members. This contribution by officers to a scrutiny review assists in building up their experience of working with cross party members, understanding their concerns and priorities and so on. We wish the Committee to note that this officer support and contribution is distinct from that of dedicated scrutiny officers (see later). Our experience shows that dedicated scrutiny officers are essentially in building and facilitating cross party trust in the scrutiny process.

For some members they develop a better insight into key strategic, complex areas or working with a local community or building up questioning skills. Some scrutiny teams include the following soft measures:

- Number of officers invited to give evidence and contribute to reviews.
- Number of service users/residents co-opted onto scrutiny committees.

A good measure of the effectiveness of a scrutiny function would be how often overview and scrutiny has considered complex or contentious issues either at the direct request of the public, or councillors (including the Executive) or partners on the public's behalf?

It is difficult to measure the success in terms of pure outcomes, as Scrutiny never delivers front-line services. Success has many fathers and failure is an orphan. That said, self-confident service officers who been involved in a scrutiny review do give credit where credit is due and recognise the impact the members' involvement has made.

Do overview and scrutiny committees have adequate powers and resources to hold the executive to account, and if not, what additional powers and resources are required?

Powers

Perhaps it is interesting to start with the powers we believe we should not have! A wish is often expressed for Overview and Scrutiny Committees to have more powers, notably to be able to compel action arising from their recommendations. To enable such powers would be a mistake, as it would alter the fundamental purpose of scrutiny and confuse its role with that of Full Council. Overview and Scrutiny is, by definition, not an executive function and should not be given powers to make it as such.

Looking back it can be seen that the current powers that exist for Overview and Scrutiny have accrued in a piecemeal fashion over the eight years of its development. This has not been helpful for its practitioners, who have had to manage its implementation. It has, however, illuminated the way in which some 'powers' are more effective than others. Perhaps foremost amongst these is the right of appeal to a higher authority, triggering a process of arbitration.

The most effective example of this relates to the Health Scrutiny role. It could be argued that, when Health Scrutiny was introduced in 2003, the 'power' that motivated local NHS partners to deal seriously with the function was the fact that Health Scrutiny Committees might refer contested proposals to the Secretary of State. In other words, it is important to take the role of Overview and Scrutiny seriously not only because it is a legitimate governance function led by those with a democratic mandate, but also because it has recourse to a higher executive function.

This model is reflected to a certain extent by the 'call-in' function within the Council's decision-making process, whereby Overview and Scrutiny can refer a contested decision to Full Council. In both instances – Health Scrutiny and Call-in – the record shows that this 'power of recourse' has been used relatively little and, on the whole, responsibly. It is therefore disappointing to see this effective formula not being applied in other recent proposals for Overview and Scrutiny, notably those in the Police and Justice Act 2006 (relating to scrutiny of crime and disorder) and the Local Government and Public Involvement in Health Act 2007 (relating to wider scrutiny of partnerships and the Local Area Agreement). This seems to have been an opportunity missed and an example of lessons not being learned from good practice. This power of recourse, if extended to others, would address the accountability gap that exists at the moment within partnerships working.

In terms of what they can scrutinise there needs to be greater awareness and publicity that local OSCs can:

- Scrutinise the performance of management;

- Provide constructive challenge and contribute to the development of strategy;
- Scrutinise information relating to risk and systems of risk management.

There needs to be a balance of activity within these three areas without any one of them predominating.

Resources

The most important resource available to Overview and Scrutiny is its Members. This is finite and will remain so. Indeed, it is only likely to reduce as other roles for Members, such as neighbourhood working and ward budgets, continue to be proposed. It is in this context that any discussion of specific resources should be considered.

Surveys from the Centre for Public Scrutiny show that, in London, there is an average of 4-5 scrutiny officers per Borough. While arguments could be made for increasing the level of dedicated resource, there are at least two factors that we believe should be considered for any number to be effective:

1. The position of scrutiny support within the organisation

It is still the case in some authorities that Scrutiny Officers are situated in Legal and Democratic Services. This is unhelpful to the view of that support which can be formed by Members and others as it risks Scrutiny Officers being seen as Committee Clerks. Recent work from Warwick Business School and The Centre for Public Scrutiny has shown this to be very far from what is needed. Indeed our discussion with our scrutiny members tells us that! There are two models. For example in the London Borough of Hackney the Scrutiny Team comprises 5 officers and is situated in the Policy and Performance Division of the Chief Executive's Directorate. This places Overview and Scrutiny alongside colleagues working at the Council's corporate centre who can contribute usefully and quickly to each other's work.

In Hounslow the Scrutiny Team has 6 officers (including one administration post) and is positioned in the Chief Executive's Office, placing it at the heart of the corporate centre and independent to any service department. The Head of Scrutiny post is equivalent to an Assistant Chief Officer and reports direct to the Chief Executive. This model also enables officers within the scrutiny team and across the organisation to contribute to usefully and quickly to each others work with the added benefit of the scrutiny support being 'seen' as equally valued to that provided to the executive.

2. The contributions of other officers

It is not common for Scrutiny Officers to have a professional background in the field that their Committee's remit covers. Therefore the support of other officers across the Council and in partner organisations can prove crucial. All officers have a responsibility to provide support to all Councillors but in reality it is often the case that officers (non scrutiny) see

themselves as working in support of the executive or their service area. A better appreciation of Overview and Scrutiny's value, and the return that other officers can receive from investing their time with Overview and Scrutiny, still needs to be developed more widely.

However what is important to stress based on our experience is that for overview and scrutiny to work effectively, and for the public to see it working 'independently and free from the decision makers and therefore to trust the process and resultant outcome, is that it does require dedicated officer support.

How effectively have local authorities embedded a culture of scrutiny into their decision-making processes?

Scrutiny is embedded into decision-making processes through constitutional procedures and convention. Whether that equates to a "culture of scrutiny" is a separate issue. Also, whether a 'culture of scrutiny' is preferred to a 'culture of overview and scrutiny' is another question worth asking as 'holding decision-makers to account' is not the only role for overview and scrutiny committee Members to undertake.

It is arguable that in local government we have developed more a culture of 'overview' than of 'scrutiny', although obviously this will differ between councils. Local authorities have become accustomed quickly to the process of scrutiny reviews and dealing with the reports and recommendations that they produce. There is less evidence, however, of how 'holding decision-makers to account' takes place, whether or not it is effective and what it produces.

The reason for this may stem from issues such as local politics and reputation management, amongst others. In a Borough with a strong, single-party majority there might be little political motivation for developing a 'culture of scrutiny', particularly if the ruling party makes decisions in-group or the opposition has limited access to overview and scrutiny. Likewise, Councils work hard to manage their reputation locally and can be reluctant to encourage a 'culture of scrutiny' that could send conflicting messages to the public.

If it were true that Councils' are not sufficiently proactive in developing a 'culture of scrutiny', a question remains as to what might motivate them to do so in future. There are opportunities here with regard to the Comprehensive Area Assessment. Helpfully, the Audit Commission's new framework makes specific reference to the importance of overview and scrutiny's work as an evidence base for the self-assessment. It also proposes a 'dual relationship' between CAA and the overview and scrutiny function. This is a welcome development that might encourage those councils without a 'culture of scrutiny' to get on with developing a culture of 'overview and scrutiny' within an overall framework of a culture of governance.

Do certain models of local decision making provide for stronger accountability and openness; if so, why are they more effective?

Models are enablers. What is key is that they should create and reinforce an organisational culture, intent and will for openness and accountability. We understand that the question is about mayoral vs. leader/cabinet but we would like to make a general comment about the imposition of structures/legislation etc. on scrutiny. We think it is right that central government has not imposed any model of scrutiny committee structures etc. but we would like to point to worrying examples of council constitutions that are very limiting of scrutiny freedoms e.g. limiting the number of meetings that a committee can hold per year, only allowing additional meetings to be held under 'exceptional circumstances' with the 'proper officer' deciding what counts as 'exceptional', or the same council not allowing any sub-committees to be formed.

Good scrutiny depends on scrutiny members having a) a clear framework within which to work; and b) some degree of trust that they alone can take decisions about how they work. It seems perverse that members in some authorities are not trusted to decide for themselves if they are having too many meetings, or whether they should set up a sub-group/task group to look at a particular issue.

We strongly advocate that the model and framework for scrutiny should be ***prescriptive in terms of scrutiny rights*** but also clear and simple and set out the freedoms and possibilities that scrutiny has, and the flexibilities for local variation within that basic framework.

Is there a role for standards committees in promoting openness and accountability in local government, and if so, what should their role be?

[No response to this question.]

How effective are the arrangements for giving certain elected members lead member responsibility and accountability working in practice?

Much depends on the confidence of the Executive member and their relationship with the senior officer as to who is accountable and held accountable for a decision. There are certain members who have responsibilities set out in statute such as the Lead member for Children's Services.

We would like to pose the question differently and say that there is a question about the effectiveness of Lead members holding their service areas/directors/senior managers to account. This is where the accountability model falls down in our experience – and where scrutiny can fill this gap. Council Leaders/Mayors often make the comment that they are very effective scrutineers themselves but then the question is about open and public challenge to their decisions.

Lord Laming has touched on this issue and has, in our view, missed an opportunity to strengthen accountability and transparency in the area of child protection in our opinion by solely focusing on the Executive Leads. (See paragraphs 2.7 and 2.8 of his report: <http://publications.dcsf.gov.uk/eOrderingDownload/HC-330.pdf>)

We would go back to Lord Laming's original report of 2003: *'Gina Adamou, a Haringey councillor, said, "If I ask questions she [Mary Richardson, the director of social services] would say 'everything is okay, do not worry, if there is a problem I will let you know'." I find this an unacceptable state of affairs. Elected councillors and senior officers must ensure that they are kept fully informed about the delivery of services to the populations they serve, and they must not accept at face value what they are told.'*²

We would argue that this situation still pertains – and not just in regard to child protection. It places a very big burden on Lead members without properly recognising how difficult it is for them to hold an experienced Director to account. We are not saying that scrutiny does not also sometimes accept too readily what they are told by senior officers or members but there is much greater chance that in the scrutiny setting – where scrutiny members are inviting an officer to their space, chaired by a scrutiny member, with more strength in numbers, – of an officer being held to account – with the added benefits that it is in public and open and transparent.

There are good examples of scrutiny looking at child protection e.g. Hertfordshire County Council (<http://www.idea.gov.uk/idk/core/page.do?pagelId=8013898>). Scrutiny is also an excellent training ground for Lead members. This has been the feedback from members who have made the transition from scrutiny to the Executive. If scrutiny was encouraged to look at this issue more often it would mean that members get more used to the sort of questions and probing to follow in regard to child protection. It would create a much greater spirit of open, democratic and public accountability for this issue which is currently lacking.

What is the role of external organisations – including for example, regulatory bodies or the media –in holding local government to account, and how does this impact on public trust?

They have an essential role to play and it is a multi-faceted one. They push issues relating to performance, leadership, risk, resources, strategy and intent, which may not have been discussed within the organisation, out into the public domain.

They remind local government that they are public bodies and have a duty to be open and accountable. They could possibly be doing more in terms of making value judgements about what this Committee has called a "culture of governance". We recognise that this requires external auditors who have the skills and experience to make judgements about governance of a public,

² P.5, <http://www.victoria-climbie-inquiry.org.uk/finreport/report.pdf>

democratic organisation. Governance is very different in a private sector company and auditors who are used to that model often do not, in our experience, understand governance in a public, democratic, big 'P' political environment. Equally, given that quality varies in authorities, it is difficult to find peer reviewers who have the right level of understanding from their own authorities to make judgements. There have been instances in our experience of inspectors judging the quality of scrutiny almost solely on the number of call-ins – which is a very narrow and perhaps rather misleading measure of scrutiny's effectiveness.

In terms of public trust and external auditors there are a number of different issues and the picture is mixed. Regarding Ofsted, for example, there is possibly more public credibility for their school inspections than in child protection where, following Baby P, questions have been asked in public about why they did not pick up any of the problems in Haringey in earlier inspections.

Regarding public trust in the key local government auditor, the Audit Commission, people are more likely to make up their own minds about the quality of local services as they experience them than rely on the Commission's judgement. The Commission's own focus group analysis found that *"the majority view was that it [the outcome of inspection] is of limited practical use but might be "nice to know."*³

The findings go on to say that *"Participants clearly desire to use CAA as a tool that individuals can use to leverage better service. This is a key communications challenge given CAA, as it stands, cannot deliver that."*⁴ We would argue that CAA should not try to deliver that. Overview and scrutiny is, if working well, the best means for the public to leverage better service. We have seen this on many occasions where the public have made referrals to scrutiny, and better outcomes have resulted. It does depend on whether overview and scrutiny is working well and this depends on whether backbench members are and feel empowered to provide good critical friend challenge, or engage with an issue.

The CAA guidance that we have quoted in a response to an earlier question recognises that it is a mutually informing relationship between scrutiny and CAA. Scrutiny can use the reports, and CAA judgements will rely on reports from scrutiny reviews and minutes of scrutiny meetings. There is greater recognition under CAA than there was under CPA that the judgements have more of an *internal* impact within the organisation, with officers and members keen not to lose star ratings/get poor judgements, than an *external* impact with members of the public interested in those judgements. Scrutiny can bridge that gap.

While it is not directly answering the question about the local press and trust, in terms of council communication departments, scrutiny is often perceived as

³ p.27, <http://www.audit-commission.gov.uk/caa/downloads/CAAengagingthepublic.pdf>

⁴ p.28, <http://www.audit-commission.gov.uk/caa/downloads/CAAengagingthepublic.pdf>

a threat to the authority's reputation, the phrase "washing dirty linen in public" is often used. It is very frustrating for those in scrutiny that the value that the function has in *protecting* the authority's reputation is not recognised. We can cite so many examples of where scrutiny has defused an antagonistic public perception of the council through e.g. co-opting the most vocal protestors onto a scrutiny review, and holding those meetings in public. There are examples of this for scrutiny reviews of housing allocations, services for leaseholders, health services, SEN services, the list goes on... All members of the public who do then go through that process say how much they value scrutiny as they see it as independent and, even if they don't get the outcomes they want, they feel they have been understood and, in turn, do themselves better understand the council's position. We have direct feedback that shows this. It is intensely frustrating that scrutiny's independence is more often seen as a threat than an asset.

Scrutiny works to an evidence-base and – if they have dedicated officer support – has officers who understand that their role is to ensure any review is about performance and outcomes, and not ideology.

Is there a tension between openness and 'getting things done'? If so, how can they be reconciled?

Yes, there is. However, in a politically (small 'p' politically) mature organisation, councillors, party groups, and officers find a way of ensuring that decisions are open, that there is a check and balance, *and* things get done. It comes down to the rather intangible good culture of governance.

For example, where scrutiny committees have acted as the critical friend for a major tendering process, they have not held the decision up but ensured accountability within the process.

Issue 3: Local government officers: role and accountability

Does the fact that senior officers are required to support both the executive and scrutiny give rise to a conflict of interest, and if so, how should this conflict be addressed?

As you have heard the Local Government Act 2000 introduced the most fundamental changes to role of local politicians for 100 years but said almost nothing about the role of their officials. We agree that local authorities are not set-up to support their current governance models; rather governance models have been applied to local authorities.

The model of overview and scrutiny is based largely on Parliamentary Select Committees where support arrangements are on a different scale and, more importantly, exist on a different basis. Of course, Select Committees rely on information from Government Departments, just as the London Assembly relies on information from the GLA Group, but local authorities do not have an operational separation of powers such as can be found in these other scrutiny bodies to varying degrees.

Such a situation inevitably gives rise to a perception that senior local government officers might have a conflict of interests. We expect senior officers to provide a professional service to all Members and few, if any, would argue that this is not the case. It is, however, probably fair to suggest that senior local government officers know on which side their bread is buttered and prioritise their work accordingly.

There are many experiences where support and advice arrives too late to be considered by scrutiny members. Senior officers can sometimes have very strongly held beliefs about a particular approach to an issue. Or officers find themselves unable to respond fully to scrutiny questions and at worst have been 'advised' by the Executive portfolio holder to limit their advice to a scrutiny committee. In these circumstances middle managers may find themselves advising scrutiny committees, which on the one hand is good career development for the manager but can lead to frustration if members are unable to make good progress on their inquiries, reviews and investigations.

This is not a criticism of senior officers; it is more a challenge to overview and scrutiny to go about its work in a way that doesn't require exclusive reliance on their contribution. Overview and scrutiny committees have become adept at triangulating evidence they hear from officers: making comparisons with other councils, speaking with external experts, and conducting their own empirical research. More work along these lines, complimenting and testing the views of senior officers, enables overview and scrutiny to make a more valuable contribution to an authority. This does; however, require a decent amount of dedicated support for the function to assist Members in accessing information other than what Professor Leach has called the "unified officer view".

There is also a criticism that a split in the officer support is divisive. Our experience demonstrates that this is not the case. Dedicated and independent support officers have, as has been highlighted earlier have shared desire to help improve the authorities performance. They are very much working for the same organisation.

We would further add that in our collective experience dedicated officer support requires a senior officer heading up the officer support to scrutiny members for the whole organisation and external partners to take local government accountability seriously, and treat with equal concern requests for advice and information for example; demonstrate to local residents that local councils take openness, transparency and accountability seriously and a recognition that the architecture of accountability cannot be supported effectively without this senior support. We would argue that this issue of dedicated scrutiny officer should not be a matter of choice but is a right that local people can expect for their elected non-executive councillors. To this end we endorse the appointment of a scrutiny officer as set out in the Local Democracy, Economic Development and Construction Bill.

We are aware of the concern within local government of the risks and costs associated with a 'scrutiny industry'. However for scrutiny members to constructively challenge strategy and scrutinise performance of management, non-executive councillors require dedicated support to help them match the knowledge acquired by an executive members who can immediately turn to a pool of staff from within the council. It is essential that scrutiny members have their own dedicated, independent staff to help them gather and analyse information and enable councillors to ask more searching questions on the public and local residents behalf. We have seen how powerfully how this dedicated and independent support can assist in building trust between the council and its community.

So we would say this is not so much a scrutiny industry but an essential requirement of openness, transparency and accountability.

Issue 5 Local Government Accountability and partnerships

What, if any, improvements could be made to ensure the principles of openness and accountability are further embedded in partnership working?

The problem many people have with partnerships, as with any powerful local decision-making body, is the question of how to get rid of them. Democracy has a built-in safeguard for this in the form of an election. There is no formal, regular way for the public to do this with members of a partnership.

The public do not understand accountability for partner organisations. We would agree with the findings of Joseph Rowntree Foundation research.⁵

They found that:

Towns and cities are now governed by a patchwork of [...] governance structures [which are] complex and changing. [...] Citizens and service users in disadvantaged neighbourhoods are doubly disadvantaged. They have to negotiate the complexities of public service delivery to meet their immediate needs, and also respond to the many consultation and engagement initiatives. [...] *There is an absence of effective democratic oversight of the design of new structures or their operation.*

The representation of elected Members on local partnerships is low. Usually the Leader/Mayor or relevant Cabinet Member may Chair or have a seat on the LSP and its sub-partnerships. The Local Government Act 2007 has gone some way to addressing the absence of openness and accountability of partnerships to elected representatives but is limited to local improvement targets. It also encourages a focus on the effectiveness of partnership working, rather than what a partnership does, i.e. are the right people turning up and doing the right things rather than 'what is being delivered'. This is a pretty dry undertaking to offer to Councillors who have taken the trouble to ask the electorate for their vote.

⁵ Designing citizen-centred governance, May 2008:
<http://www.jrf.org.uk/publications/designing-citizen-centred-governance>

However, if it is deemed appropriate for the partnership to hold services to account for their performance, and for overview and scrutiny to hold partnerships to account for their governance, it would be a good idea to give scrutiny councillors some means of recourse. For example, where one partner is found not to be making sufficient contribution to the partnership, scrutiny should be able to require an explanation, recommend remedial action and, if necessary, take action to find a replacement. The experience of call-in and health scrutiny suggest that local Councillors are more than capable of using such powers responsibly and in the interests of their local electorate.

Conclusion

In conclusion we hope that you find some of our contribution to your Inquiry interesting. We would be only to pleased to provide further assistance.

This submission has been written by Sunita Sharma, Head of Scrutiny and Performance LB Hounslow but writing in capacity as Officer Co Chair of the London Scrutiny Officer Network and Jonathan Hill-Brown, Scrutiny Officer LB Hounslow on behalf of scrutiny colleagues in London.

London Scrutiny Officer Network
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