

Communities and Local Government Committee

Oral evidence: Overview and scrutiny in local government, HC 369

Monday 16 October 2017

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Watch the meeting

Members present: Mr Clive Betts (Chair); Mike Amesbury; Helen Hayes; Kevin Hollinrake; Fiona Onasanya; Mr Mark Prisk; Mary Robinson; Liz Twist.

Questions 1-43

Witnesses

I: Professor Colin Copus, Director of the Local Governance Research Unit, De Montfort University; Jacqui McKinlay, Chief Executive, Centre for Public Scrutiny (CfPS); Councillor Marianne Overton, Leader of the Independent Group, Local Government Association.

Examination of witnesses

Witnesses: Professor Colin Copus, Jacqui McKinlay and Councillor Marianne Overton

Chair: We will start our proceeding for today. Thank you very much for coming to give evidence to us. This is the first evidence session of our inquiry into overview and scrutiny in local authorities. To begin with, I will ask Members of the Committee to put on record any interests that they have that may be relevant to the inquiry. I am a Vice-President of the Local Government Association.

Liz Twist: I am a councillor on Gateshead Metropolitan Borough Council.

Helen Hayes: I employ a councillor in my staff team.

Kevin Hollinrake: I employ a councillor as well.

Mike Amesbury: I employ a councillor as well in my staff team.

Q1 Chair: Those are our interests on the record. Just for our record, as well, could I just ask you to say who you are and the organisation you represent?



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Professor Copus: My name is Colin Copus. I am Professor of Local Politics and the Director of the Local Governance Research Unit at De Montfort University in Leicester.

Jacqui McKinlay: I am Jacqui McKinlay. I am Chief Executive of the Centre for Public Scrutiny.

Cllr Overton: I am Marianne Overton. I am a Vice-Chair of the Local Government Association.

Q2 **Chair:** Thank you all very much for coming this afternoon to give evidence to us on this important subject. It has been somewhat delayed by the intervention of a general election, but we are here eventually to look at the evidence that you have kindly submitted to us. Have you all been before? Certainly, Colin and Marianne have been before. Jacqui, you have not, so it is a first for you. You are all welcome. We will try to get into what is an important issue and find out a bit more from you about it.

We have asked people about their views on overview and scrutiny. There have been some pretty derogatory comments in with the evidence we have received, saying that it is ineffectual and passive. Those words have been used. It was described as a “pleasant little talking shop” and something to keep councillors employed who have not got any executive functions. Is that a fair summary of what actually goes on?

Cllr Overton: Definitely not, no. I understand that there are places where it did not work at certain times, and those are places we need to tackle. However, there are also many examples where scrutiny has been extremely effective in making changes in the council’s policies and in the council’s practice—and indeed in influencing partner bodies so that their policies and practices can change. That makes life better for our residents, which is what we are all about. I can understand some examples where it is perhaps not working, but overall it is an extremely good process when operated properly. I will leave it there for now.

Jacqui McKinlay: We have come across those remarks before in our travels. I would agree with Marianne, in that the concept itself is the right one. Political and democratic accountability need political checks and balances, and overview and insight. Is it working as effectively as it could do currently? No. Does it need to work effectively? Yes. We need good overview and scrutiny now more than ever. But there are some really good examples of where it does work very well. However, there are some real challenges and some very good reasons why it is not having the impact.

With some actually quite small tweaks and changes in some cases, it could be very effective. There are some great examples out there where it is working well, but it is not currently living up to its potential.

Professor Copus: I would agree with all of those points. To add to that, there is a scattered pattern across the country. In some areas scrutiny is really effective; by “effective” we mean it has a demonstrable impact on



policy and decisions. The pattern that has emerged is very much that when scrutiny looks beyond the council, when it looks at some external agency or body, then (a) the council's experiences tend to be more positive, and (b) the outcomes tend to be more positive as well, because the usual dynamics of party politics do not necessarily have to come into play there.

Certainly, there is a scattered pattern and certainly there are reasons for that as well. However, it is interesting to note that even though we have had overview and scrutiny for over 10 years or so now, some councillors who have experienced it for that period of time still feel distant from the processes of where decisions are made and still feel as though scrutiny is not necessarily having the impact they, as councillors, would want it to have. It is those issues that really need to be addressed, and that is the area where change is needed.

Q3 Chair: To throw it back, we can all sit here and say, "It is good in parts, and where it is good it is very good and where it is bad it is awful." Is there not a problem that in many places where it is awful, the councils actually do not know it is awful? They do not know that there is anything better out there. We can talk about all these good practices, but in many places councils who are not doing it very well, who are not getting anything out of it, who are having a little chat and a pleasant talk, actually do not know other councils are doing it better. How do we address that challenge?

Jacqui McKinlay: It is interesting, because over the years we have tried lots of different ways of measuring the effectiveness. One of the ways we looked at is self-perception. It is fascinating. In the latest survey we did on behalf of APSE, which was fairly recent, we had a third saying it was excellent, a third saying it was adequate or good, and a third saying it was poor or very poor. We also find the chairs of scrutiny panels have a much more positive view of scrutiny.

What you trust in order to measure is one of the big questions that we need to look at moving forward. The last wholesale independent evaluation of local government scrutiny was in 2004. The evidence you are gathering here is really valuable because of that. We need to invest, as Parliamentary Select Committees have done over the last couple of years, in how we measure impact and how we then work out how to support the councils that are not doing as well.

There are some flaws. I am a huge fan of the LGA peer review, but there is a voluntary aspect to that, which means those councils that do not want to take part in it do not necessarily take part in it and can be the ones that kind of hit the buffers a bit at some point in the system.

Q4 Mary Robinson: I am really interested in effectiveness. I have to declare that I was a chairman of a scrutiny committee in local government, so I know how difficult it is. We used to talk about SMART scrutiny: being specific, measurable, achievable, realistic and time-bound. Those are the



ways we tried to measure it. How do you measure that effectiveness, would you say? Are those useful ways of looking at it? Also, what does good scrutiny actually look like?

Jacqui McKinlay: The advice that we gave around recommendations was that all recommendations should be SMART. You should do scrutiny where you know you are going to make a difference. You are not just telling people what they already know; you are making a difference. They should be SMART. In the past, one of the ways we used to measure whether scrutiny was effective was whether those recommendations were accepted. Actually, the act of being scrutinised can sometimes change the behaviour, but the recommendations are one thing.

We do also need to look at more sophisticated measures. It is complicated. We know lots of things have an impact on how a programme or a project or a decision is made, not just scrutiny. One of the areas we have looked at in the past is social return on investment. You need resource and time and effort to do that. You are trying to find the resource, time and effort to support scrutiny and then to do something quite sophisticated, like social return on investment. We need to get better at it. Everywhere in local government needs to prove its worth, and scrutiny is one of those areas.

Cllr Overton: I would just like to come back on a couple of things. How can we make sure that good services improve throughout the area? That is the first thing I just want to pick up. As you know, the Local Government Association does provide a certain amount of training. We also have the peer reviews. Also, for councils who have not put themselves forward but where we can see things are not operating well, we do have principal advisers and area chairmen in each political group, so we have a handle on which councils are performing well and which ones are not. If they are not performing and they are members, they are approached and invited to take part and offered something that they would like. While it is quite right that it is voluntary, at the same time it is clearly accessible and is made clearly accessible to councils, so they can access that easily.

The other thing I just want to pick up on is the point about what good scrutiny looks like. It is absolutely right, and I agree with the comments made before about making sure that you tackle areas that are not too large—i.e. they are the right size, where you can make a difference. You have to make sure you involve other bodies, such as other experts, service users and partners. You have to get all of those around the table to get a holistic view of how this service can be improved for people.

There are cases where this has achieved well. I do not know whether I should give some examples here or whether you want to come back to them, but in places where it has achieved well, we can see the difference in the public perception of that service or that issue has improved. That is probably where we would like to be looking, so that



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members of the public can see that it is being looked at and it has improved.

Professor Copus: In terms of what good scrutiny looks like, there is a temptation to focus on the committee and the process with the members itself, which is understandable. However, it is also about the infrastructure around it and the architecture that supports it. Is the scrutiny function well supported by officers and by the right sort of officers? I used to be a committee clerk, so I am not decrying that grand profession, but scrutiny committees need access to policy officers; they need access to people who can manipulate statistics, for example. They need the right sort of support.

Are they well resourced? Is there a parity of esteem within the council between the executive and scrutiny? One of the things I have noted in all of the work I have done on scrutiny since 2002 is I have only ever once come across a councillor who said, "If you offered me a place in the cabinet, I would reject it. I want to stay a chair of scrutiny". I am sure there are more than the one I have met, but that is an indication. It cannot be seen as a stepping stone into the cabinet; it has to be seen as an alternative career path for councillors. Unless it is resourced and supported, that will never happen.

Q5 **Chair:** When you offer them this wonderful possibility of coming to the LGA and improving their scrutiny, how many councils say, "No, thank you. We do it well enough anyway"?

Ellr Overton: I cannot think of any who have rejected it, because, as members, you can see the value. That is the point of being a member of the Local Government Association. I cannot think of councils who have actually rejected it. It is very easily applied, very straightforward and the support they get is very effective. The feedback we get is excellent.

Q6 **Mary Robinson:** Something has occurred to me in terms of the social return, if you like, and the interaction with the community. Is there still a role for appreciative inquiries in good scrutiny?

Jacqui McKinlay: Absolutely, yes. Where scrutiny is not using more modern techniques around evidence-gathering and appreciative inquiry, we have to create a way to use digital and social media, because what has happened is the world of local government has changed so dramatically and will continue to change. What we cannot have is 20th-century decision-making: just come along to an oak-panelled room on a Monday afternoon and expect to be able to use just that period of time.

As Colin said, it is how things are approached. The best scrutiny is done where they take a day out. They will actually go out; one of the best ways of performing scrutiny is to go along and see the cardiac unit or go and see whichever issue it is, or they will actually go into the community and hold those scrutiny meetings there.



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Where a creative and a flexible approach is taken to scrutiny, you get much closer to the community and you get better evidence coming through than using the traditional approach of letting the officer rock up. They are the ones who are answering. We do not get the democratic accountability. That is where you see it being not as effective and where you get the comments you had earlier.

Q7 Liz Twist: You were talking about people seeing the difference. How do members of the public spot the difference? Do you have any examples of that?

Cllr Overton: Yes. I am just going to check. If I take Newham Borough Council, one of the things they were looking at is the large number of young people they have, aged 16 to 24. This is the age group that sometimes suffers from mental-health difficulties at an early stage. If you do not catch it early, obviously the problems are multiplied through their life. They looked at a very wide, inclusive way of doing scrutiny, including the health authority and the university. In that way, together with the public, they created a mental-health strategy, which was then put in place. That meant resources came from all of the different partner bodies as well, which meant they came together to create a better pathway for young people in that area.

That is just one example where it has made a significant difference, hitting a key issue for the local area.

Q8 Liz Twist: Okay. What is the primary role of scrutiny committees, or what should it be?

Cllr Overton: I will let the others answer, but for my part it is holding the executive to account, because somebody has to. It is also very much about taking an independent, careful study of all of the facts of the matter, focusing on the outcomes that the residents need and want and making recommendations involving not only your own council but other bodies as well to make that difference that will improve lives for our residents.

It is a very direct way of making life better for residents. That is what we are elected for.

Jacqui McKinlay: My thoughts are very similar. Obviously, the key role is holding the executive to account and making sure decisions have been made, are implemented and deliver what they are supposed to deliver.

Scrutiny can have even more of an impact, though. It is sometimes a bit tricky to work out how you do that. It is similar to the example of Newham: if scrutiny is involved earlier on in policymaking, the evidence shows that it does have an impact.

Another way scrutiny can make a big difference is that through the Localism Act, you are allowed to look at issues that are of importance to the local area and local people. That gives an overarching view, which



means scrutiny then has the freedom to say, "The executive might be looking at this, but actually this issue here is really important to people, and that is where we should be getting involved".

Professor Copus: I would just echo that. Executive accountability is absolutely vital. It is an area where some overview and scrutiny committees struggle, because you are asking members of the majority political party to challenge in public an executive they put in place. Often that area is fraught with some difficulty, but it is a prime role for an overview and scrutiny committee.

The other role is policy influencing through evidence collection. One of the complaints I often hear from councils is, "We cannot make decisions in overview and scrutiny". No, that is right: you cannot. However, you can shape and influence policy if you develop an evidence base either aimed at some internal service the council itself provides or, more often, aimed at some external policy area.

I know of a few councils—there are probably more than the ones I know of—that have explored the Government's devolution policy, for example, through the scrutiny process. What do we want from it? Where is it effective? Where can it be improved? It does not have to be a focus on the council, but separating executive accountability from policy-shaping and influence is vital. The two should not be done in the same body.

Q9 **Liz Twist:** Earlier, you were saying that when it does have that external focus it can be easier to see the difference. Is that right?

Professor Copus: For many elected members it may not be easy to see the difference, but it is an easier process—politically easier—in the sense that, as the council service is not the subject and therefore the majority group's stewardship of that service is not the issue that is bubbling below the surface, members can be much more confident in cross-partisan work, because they are focused on an external objective or an external body.

Clr Overton: I would just like to add to that, if I may. The point is that there should be flexibility. There is no one-size-fits-all, and I accept that. At the same time, independence is helped where a member of the opposition group chairs the scrutiny committee.

The Local Government Association recognises that there are different models, but—this is personally and also as leader of the independent group—we see it as a clear statement that you want independent scrutiny if you put an independently minded chairman there. The committee electing that chairperson directly, rather than it being through political machinations, would be one way of doing it.

Chair: We will come onto that particular issue in due course. You have anticipated a further question. We will come back to that.

Q10 **Fiona Onasanya:** I should really declare an interest, in that I used to be



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a county councillor and we had a committee system for that council. Based on what you have said before, I really wanted to ask about the delivery aspect, because I understand scrutiny; I understand there is no one-size-fits-all solution: a chair can be elected from an opposition party or whoever is manning that committee can be seen to be independent. I do have some concerns about how we are perceived by the public. When we are saying we have this database or we have data collated that they can have access to, how do you deliver that? How do they sit there and feel their views are being put across, challenged and scrutinised, if this is taking a long period of time and they cannot see the delivery of what their concerns were?

Cllr Overton: Do you mean because of time or because they have not got access to the data or because of the culture of the committee?

Fiona Onasanya: It is more leaning towards the culture of the committee, because with delivery it is very clear, for example, to say, "You have asked this. This is what we have done. We have had a consultation. We have looked at the results. We have looked at the data, and this is the discussion that was held". Because of the structure, how are you getting that delivery element over to the people who have shared their concerns?

Cllr Overton: I agree. It is very important. The culture of the committee is critical, and that is why the chairmanship is critical because that sets the culture. As has been pointed out, that is admittedly set by the council itself. Where it has worked well, the public members have seen the data as well and have had access to that. Where it has not worked well is where the public know they came and they were heard, but they are not sure they were completely heard.

Fiona Onasanya: And listened to.

Cllr Overton: In other words, there is not a clear answer to the issue they raised in the report and in the answer. It is very much about the culture. You have to genuinely want the best outcome for your residents and nothing else.

Q11 **Fiona Onasanya:** Do you look at that when it comes to your recommendations? If you have a recommendation, that should surely factor in some of the responses or answers to those questions.

Cllr Overton: Absolutely, yes. You are right. Before you start, you set out very clearly where you are going with the scrutiny committee piece of work. At the end the recommendations must match those. You might have a few extra, but you certainly have to have answered the original questions very clearly. Yes, that is absolutely right.

Q12 **Mr Prisk:** Perhaps we can delve into the grubbier side of politics in councils. This alludes to some of the questions you have touched on already. How significant do you feel the role of party politics is in scrutiny for good or ill? On the record, Professor Copus, I think we saw the note



from your research unit that refers to the potential of this becoming a meaningless ritual. How significant is this in the way scrutiny committees operate?

Professor Copus: In those areas with the wrong political culture and the wrong set of party-political interactions and relationships, it can fundamentally damage the overview and scrutiny process. Again, it is more likely to damage the accountability of an executive where you get members from opposing political parties, one seeing their role as using scrutiny to attack the executive and the other seeing it as a forum in which to defend the executive. If that is the interaction, you are not going to get executive accountability. To me, it is quite clear that some councils have those dysfunctional party-political relationships. It can spill over, for example, into the allocation of committee chairs.

One of the fundamental principles of good scrutiny is that committee chairs are shared between parties and with independents. It depends on numbers, but it is important to share chairs, vice-chairs and also task and finish group chairs. If you have got the wrong political culture, that is unlikely to occur. There are many cases where the majority group take all the chairs and vice-chairs as well as overview and scrutiny. What that means is that the opposition or minority groups see their role as simply one of opposition, as opposed to being able to use scrutiny for more sophisticated policy development. It is not so much a problem with scrutiny; it is often the problem with the nature of party politics in local government, where, depending on which council you look at, the whipping system can indeed be more acute than in Parliament, for example. It is unusual to get councils with one, two and three-line whips. There is no whip in scrutiny, but councillors will assume that there is a whip. It structures the way in which they will interact in scrutiny.

The place to look at is something like Select Committees here or, indeed, Select Committees in the US Senate. Irrespective of whether there is a President or Prime Minister of your political colour, your job is to scrutinise. That is where local government has struggled: recognising the real division of labour between the executive and other members. You can be a good Conservative, Labour, Liberal Democrat or independent even if you criticise your executive and you challenge it.

In terms of a lot of the issues that are problematic for overview and scrutiny, the interplay of party politics is often at the heart of it. I will quite often hear councillors, even from majority groups, admitting that one of the reasons scrutiny is not as effective as it can be is because of the relationship between the opposing groups.

Jacqui McKinlay: We often say that local government scrutiny is a perfect system until you add politics to it. In our last survey, 75% of people say that party politics affects scrutiny. Whether that affects it for good or for ill, we operate in a party-political system and it is a democratic governance system that we have. As Colin said, where healthy politics is at play, scrutiny is a place where politics can be played



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out to some degree. However, where it works well is where it is impartial, outcome-focused and a safe place where you can discuss and share issues.

It sounds like we are all agreeing on some tweaks around chairing. We need to get a bit more of a sense of impartiality and a bit more of a sense that actually, even if there is a whip at play here, we know what is happening. If we can get a bit more credibility in the chair, it will not feel like we are playing against a complete patronage system. However, we also should not underplay councillors' political ability and how they manage the openness and transparency you do need in order to represent your public's views. If scrutiny is doing a good job, it should be dealing with some very contentious issues. How the political dynamics are balanced out comes down to good scrutiny and good politicians. We should not say it is a completely bad thing, but we do need to be very mindful of it, and scrutiny needs to be very aware of its independent role there.

- Q13 **Mr Prisk:** Presumably it is very important that scrutiny is effective and that people from the executive, whether elected or their officials or officers, should be anxious about the nature of the scrutiny and not comfortable.

Jacqui McKinlay: Absolutely, yes.

- Q14 **Mr Prisk:** I say that as a former Government Minister who gave evidence to this Committee. It is important to get that balance right. Is it about tribalism?

Jacqui McKinlay: It is about that fine balance between the executive and being a member of the executive. In the past we have often said that it does not really matter what the role of the chair is. If the chair recognises they are independent, knows what their role is, is not fearful of the executive, and wants to do a good job of scrutiny, then good scrutiny happens. You do not get the tribalism there. They know they are there to serve the public; they are there to make sure good decisions are being made and to influence policy.

Where tribalism comes in, as Colin said, is where you do not really get that healthy politics happening. You start to get a bit lost in what we are actually here to achieve.

Cllr Overton: To pick up the piece about the parity of esteem, which has been mentioned by Colin Copus, it is very important to have that between the executive and the scrutiny committee. Currently, they do not always have similar resources. As you know, an issue for our councils is that we will be £5.8 billion short by 2020 for local government. If an executive is looking for places to make savings, they might consider scrutiny. As our finances are squeezed ever tighter, scrutiny is ever more important: to make sure we make best use of the resources we have, and find other resources to be brought in to fulfil those services.



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The politics are easier if you do pre-decision, because it gives the executive an opportunity to take control of those recommendations and put them as their own. That is a bit easier. It is also easier if the subjects are ones where the executive is comfortable and willing to make a change and keen to do so. On the same balance, the scrutiny committee cannot be party-political either. They cannot try to score points; they have to genuinely try to improve life for residents. Those things make it easier.

The right to put something on the agenda is there, but it may not be necessarily discussed. That depends on the chairman and the committee. We do have that right, but it is not necessarily strong enough.

There is also a point about making sure that all members are properly engaged in the process. We have got independence of scrutiny according to the Local Government Act 2000—it was in there—but it is about making sure that we are not under a system of patronage, which goes back to what we were saying earlier about the ways in which the chairperson is selected: for their good qualities and their determination to get the best out of the process.

Q15 Mr Prisk: In some ways, that answers part of my next step. I will perhaps ask your two colleagues. In looking at the balance between the scrutiny committee and the executive, what is that balance? Is it about resources or is it about esteem?

By “esteem” I mean how those who are elected members see the respective positions, whether it is a matter of authority or whether in fact, if the resources are being squeezed, it is more of a practical imbalance. What would you both say about that?

Professor Copus: It is actually a question of both. Certainly, in many councils, scrutiny lacks a parity of esteem with the executive. As a consequence, resources and focus are placed on the executive. For example, chief executives will find the time and have little problem in working directly with a council leader or with the cabinet. Expecting a chief executive then to work with the scrutiny process is always somewhat problematic. As soon as you differentiate between scrutiny and the executive with its officer base and its officer support, you start to chip away at the esteem that scrutiny has.

One way around that, without expecting chief executives to work with every scrutiny committee, is to make sure that the scrutiny function has the resources to be able to produce evidence-based policy suggestions that the executive want to take on board, because they recognise scrutiny has done something they have not, which is spend three or four months looking at a particular issue in detail; cabinets cannot do that.

You can start to raise that parity of esteem, but it is a cultural issue as well. Certainly in local politics, we understand the distinction between an executive, which makes decisions and gets stuff done, and that vast body



of members who are outside that process. The esteem and the status of scrutiny needs to be raised among officers. At certain levels within local government, I found many officers will know the council leader's name and the name of the portfolio-holder for their particular area of interest, but they might not know the scrutiny chairperson's name. Once you start to see that, you see the whole thing begin to crumble.

Jacqui McKinlay: One leads into the other. If you have buy-in to scrutiny at the top of the organisation—that is the leader, the cabinet and the chief executive—it tends to follow that scrutiny is resourced. You then hit Marianne's issue, which is that local government does not really have as much money as it used to have. Whether there is enough resource there is the question. However, if you do not get buy-in to a scrutiny approach—that openness and transparency and the willingness to be questioned, seeing the value of scrutiny—it tends to follow that it is not resourced as well and you do not get that parity of esteem.

As Colin was saying before, what you sometimes see is that cabinet members who used to be scrutiny chairs very often see the value of it. They recognise it as a resource and they think they should use it. They recognise that you get the voice of the public coming through a different route and you can get more assurance that way. If your leadership is closed to that sort of challenge, it does not just affect scrutiny; it affects a lot of how the organisation is run. That really does impact on resourcing.

- Q16 **Mr Prisk:** Could I ask all three of you another brief question? One of the suggestions we have seen is about the fact scrutiny committees are doing their reports and reporting back to the very executive they are scrutinising. Does that limit their impact? If that were broadened so they reported back to the full council, in a sense perhaps a mirror of the Select Committees here, would that strengthen their hand? What are your views?

Jacqui McKinlay: Yes, and some councils do that. Some councils also refer from council to scrutiny. If they are having a bit of an issue that is not being sorted out on the floor of council, they will bounce it to scrutiny and feel like it is getting looked at there.

Scrutiny recommendations should go in an annual report to council meetings anyway. There should be a process there. I would say about half of the councils in the country probably do not do that.

- Q17 **Mr Prisk:** Is it really as many as that? Half of them do not do that.

Jacqui McKinlay: Yes, or they do not necessarily produce an annual report or have that relationship going through. However, if you take budget scrutiny, that is probably where it is higher, where there is a bit more of an established process of, "Let us now hear the views of scrutiny", to give that assurance. However, I absolutely agree that



anything that gets a higher profile and more recognition of the role, both for officers and members, would be helpful.

Cllr Overton: The other aspect we have not talked about too much is the involvement of the media. I looked closely at Boston Borough Council, for example. They involve the media at all stages, and the public. The public were invited to contribute to the scrutiny meetings, not just sit in the public gallery. That meant that there is more accountability and more determination to get it right. That is a helpful aspect.

I would like to come back about the annual report. I am surprised you say half. Certainly in my experience it is a requirement for the scrutiny committee to put an annual report to full council. It is usually a very good opportunity for scrutiny committees to clarify how effective they have been on certain issues in influencing something that is important for the public.

Professor Copus: In terms of the impact of a scrutiny report on an executive, for example, if scrutiny says something the executive likes, its impact is going to be greater than if it says something it disagrees with, irrespective of the evidence that it might place, which is unfortunate. One of the ways you break that is to involve full council more.

We altered the political decision-making processes in 2000, but it is strange that we almost ignored the role of full council. It was the one bit that was left outside the reshuffling, if you like, of how decisions were made into having an executive and an overview and scrutiny committee. Again, there is a scattered pattern but some councils do use full council well. In some councils, scrutiny reports go there for debates or there are mechanisms by which members can request that certain scrutiny reports are debated in full council. In others, it is a perfunctory, "This committee has reported on this as part of the agenda for a full council meeting".

The use of a forum where all members are able to take part in the debate is absolutely vital. But if scrutiny behaves like a committee—if its agenda looks like an old committee's agenda, if its reports look like an old committee's reports, if it has single meetings on single issues and then accepts to note officer recommendations—it is operating as a committee, not as overview and scrutiny. If full council continues to operate in the way that it does, it too will miss a lot of the potential it has to give all members a say in what is going on and heighten the esteem that scrutiny has.

Full council is vital, but we have almost forgotten it is there. I used to be a councillor a long, long time ago. Even then, full council was the one meeting in the cycle where I would rather be anywhere than that. It is almost the same for some members now, which is a real shame.

Q18 **Fiona Onasanya:** You have really answered this question. I was going to ask about the annual reports, just because the comment was made that some do but some do not. I was a little bit bemused by that comment, as



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to why some did not, but then you said that almost all do.

Cllr Overton: It is changing; that is why. It is a changing process. Certainly, in my experience more recently it is being recognised as being very important.

Q19 **Fiona Onasanya:** Do the reports go before full council?

Cllr Overton: They go before full council. The only problem with putting all of the stuff to full council as you went along is that there would be a lot. That is the only difficulty with that, but I support the point about raising the profile and significance of the work of scrutiny. When the full report comes, it obviously opens a full discussion, if the members wish, on the items that were discussed in scrutiny. It brings it to that profile.

Q20 **Chair:** I will just pick up on one word: "culture". We can have all the addressing of failings of councils, and Marianne said they all want to come and learn how to do it better, but I think back to the hearings we had about Rotherham Council—Rotherham Council as was; I do not mean the current council, which is actually making substantial improvements—and scrutiny just was not an issue. They did not want it; they pushed it away. That was one of the failings. You could have offered them all the help through the LGA and peer groups and things, but they would not have responded, because it was a cultural problem. How do you change that culture where it is going wrong?

Cllr Overton: We did work very hard on Rotherham, admittedly once the issues were raised and we could see them.

Chair: Exactly, yes.

Cllr Overton: That has heightened all of our senses about making sure that no one is allowed to fall by the wayside. You are absolutely right, and it is critical that the Local Government Association gets in there and says, "We are coming. We are here".

Q21 **Chair:** But if you had gone to Rotherham before the problems broke, they would have just told you to go away.

Cllr Overton: I am not sure they would now. The climate has changed. What happened at Rotherham was so shocking and horrendous that it really has changed the way people approach the issue. Certainly it is quoted much with scrutiny, and rightly so. It has certainly highlighted the significance for us. I sincerely hope that culture has changed so significantly that it could never happen again; that is my impression.

Chair: That is a brave statement.

Professor Copus: I will be sort of crude: in some respects the best way of changing culture is to change the personnel. In some cases, particularly with Rotherham, there are some people whose cultural view about the way politics should be conducted was of a certain mind-set. I



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have to say they needed to not be there. Sometimes it is that crude: you have to change people to change culture.

If the electorate decides they do not want to do that, then you have to go through a series of events that is about breaking down the traditional way of doing politics in any one council. That involves bringing members together cross-party and bringing them together in more discursive settings. You have to deliberately challenge the way in which they perceive politics ought to be conducted. Some of it is about taking away the fear for members. One of the big fears is, "Will I hold my seat? Will I lose my seat? Is this too embarrassing? Is this something that will damage us if it gets into the public domain?"

Rather than see that as something to be frightened of, it ought to be seen as something to embrace. Councillors need to be able to say, "There is an issue here that which we need to discuss". I am talking generally, not specifically about Rotherham. If you engage the public and if you engage with those issues, it starts to remove some of the things that people who hold council office become worried about. However, it is a long process. Cultural change is a long process, but if you do not get it right, you get hit with the Rotherhams of this world, unfortunately.

Jacqui McKinlay: Crises will happen. We have had Rotherham; we have had Mid Staffordshire. I am sure post-Grenfell we will hopefully learn some lessons from that around how we engage with others. Some of them are unhealthy environments where people are not open and transparent. The question is about how we make sure the sector learns from that.

Part of the culture needs to be scrutiny improving its act by also selling the benefit and playing its part. We have got the executive and the chief executive as part of that culture, but do we actually have a shared understanding of what the role of scrutiny is? Everyone will nod, and then you ask them what it is, and everyone will give a different answer. There needs to be this acceptance that you need to invest in order for something like scrutiny to work in an organisation. It does not just happen by magic. Where it does not happen is where you tend to get people saying, "It is rubbish. It does not work". They have not necessarily invested in making it work.

In those organisations with a shared understanding and sense of what the priorities are, with the freedom and independence to do this and which are then resourced to do it well, you can tend to get over that.

Q22 Helen Hayes: I was going to ask about the extent to which scrutiny committees are sufficiently and adequately resourced. Also, are you aware of any work that is being done in this most recent period since 2010, when many local authorities have experienced extreme pressures on their resources and cuts to their budgets? How has scrutiny fared in that paring-back we have seen in many councils in response to that situation?



Jacqui McKinlay: We do an annual scrutiny survey, which we have done from 2003 onwards. It was okay until about 2009, and then there was this depressing tailing-off. In our last survey, when we asked the question we were down to below one full-time-equivalent scrutiny person. That is obviously a cut across from the districts through to the biggest counties and unitaries. However, it is fair to say that across all services there has been a cutting-back. Where a council recognises the importance of scrutiny you will probably find that it is not resourced as well but differently. You used to have a team of scrutiny officers whose job it was to support scrutiny. Now they may be part of democratic services; they will be pulled from the policy team, etc.

You do have examples of where they have adapted and been a bit more creative about how they pull on the resources, but in the majority of cases, particularly in small district councils, you are literally running from one committee where you are a scrutiny officer to somewhere else. The time and effort is really down to the bare bones, and it is having an impact.

Clr Overton: As I said earlier, with a £5.8 billion shortfall by 2020, it is extremely difficult for councils. They do have to think very carefully about where to put their resources and draw in as many other resources as possible. Resourcing was given as the main limiting factor on scrutiny; in this survey, 53% of people gave that response. That is a factual demonstration. However, in practice, I do see the point: one scrutiny officer is required to be appointed under the Localism Act 2010, but it did not say that it had to be a whole officer. What that means is there can be very limited resources. In my experience, this is certainly limiting the amount of scrutiny that can go on.

It is partly about not taking in other research. Certainly the councils are very good at using what information there is that is also free. We have LG Inform at the Local Government Association. There are also a number of other sources, which our councils do access, and they have information from within their own and neighbouring councils. However, we do not seem to have anything for an extra piece of research that might be needed. For example, how many children do we have in poverty in our area? There might be some other piece of research we might like. That makes it more difficult.

We also sometimes find that they do not want to take on too many pieces of work. They might say, "We can only do one piece of work this year. Whatever other subjects may appear to be important, we are going to put them to one side". The other thing is shortening the timescale. They say, "This is going to be a one-day scrutiny". That is useful, but if it is your only source and you are not then doing other things, it may be quite limiting. Certainly it is limiting the amount of scrutiny that is going on currently.



Professor Copus: Jacqui's research very much fits in with research I have done independently on the resources available to overview and scrutiny. There is a range. In some councils, it is being excellently supported. We have to recognise that there are some councils that take overview and scrutiny very seriously and they support and resource it. They make sure the right officers are supporting the process. As we said earlier, this is not just people with committee clerking skills, but researchers and policy officers. It is also about having a head of a scrutiny unit. Obviously, it is an indication that it is well resourced if there is a dedicated scrutiny unit. If that is headed by an officer of an appropriate level, and they can move across the council and not only can they request information but, because of their position within the hierarchy, they are likely to get it, that operates very well.

The issue is always that, because local government, like any big organisation, is hierarchical and based on departments, if a scrutiny officer is of the right level, they are still moving across the council, so they still have to spend time in establishing themselves in departments within which they are not based.

It does range from excellent to almost the bare minimum. In some councils, councillors have said to me, "It is a deliberate ploy that we under-resource scrutiny so that it cannot do anything and it cannot challenge the executive. It has very little role to play." Because of the financial constraint, supporting scrutiny is a soft and obvious target for reductions. It is a false economy, because good, effective scrutiny can save councils money, and indeed save other organisations money as well.

It always strikes me as strange that whenever there are debates around reducing expenditure around scrutiny, nobody ever debates reducing support for the executive. It just never comes up. There is always enough money to support the executive; there are always enough officers to support the cabinet. When it comes to overview and scrutiny, they say, "We have to think about this".

It also strikes me as strange that within every council across the country we know that non-executive members outnumber executive members. Why do you not have the resources, if you are in the majority and you can make sure your function is supported? Members are not doing it. Again, it is an element of the culture. Members feel they cannot be seen to push resources for scrutiny because they have to make expenditure cuts elsewhere. It is understandable, but, as I say, it is a false economy.

Q23 Helen Hayes: Looking at the different ways in which councils configure their resources, is there an optimum way of doing it? Is it a dedicated officer at the right level? Is it an officer who has other responsibilities and therefore other expertise but with part of their time dedicated to it? Is it a team? What is the solution?

Jacqui McKinlay: We used to say a dedicated scrutiny officer. I would agree with Colin: you need someone. However, everyone has to have a



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statutory scrutiny officer, but they say, "Well, they did not say what level that needs to be in the organisation". It also gets kind of passed down, even if someone senior has it.

As long as they have the passion, dedication and commitment to the principle of scrutiny and the specialist skills to do it, I would say we should leave councils to configure how that happens. We do need to acknowledge that we do now have the internet, and the days of research and how that happens have changed. However, it is wrong to presume that councillors themselves will have the time and the capacity to do the level of research that is sometimes needed to do good scrutiny on complex issues. Fundamentally, it needs the bedrock of good scrutiny skills within the team to do that. Obviously, we need to encourage councillors and presume they are going to do some of that. You cannot simply say it is X times whatever the size of the council budget is.

Cllr Overton: Health scrutiny is a little different. They often do have a dedicated member, so there is a difference. Also, there is a statutory right to call on people, which is significant. We will probably come to that later. Perhaps that is why they are then able to access extra resources, because it is perhaps seen as more important.

Clearly, all scrutiny is important. It can be money saving, as has been mentioned, but it can also be very important for the reputations of the council and for residents, as we mentioned earlier in some key cases. There are different models, and it is not one-size-fits-all. You could have committee officers drawn from specific policy or service areas, you could have them drawn from a central corporate pot, or you could have a dedicated scrutiny officer. All three models are in existence.

I want to back up what was said previously. It is very much about making sure the culture is right and that you are genuinely seeking the best outcomes for your residents.

Professor Copus: To your question about the optimum level, my reaction would always be that a dedicated scrutiny unit with a dedicated senior officer at the head of that unit is the optimum. That is the optimum for maybe a large county council or a large metropolitan borough. The optimum level for a smaller district might be a configuration of officers who perhaps do not sit in a dedicated unit but for whom scrutiny and supporting that function is a core part of what they do. It is not an add-on, which they get around to if they have time for. That is the problem in some of the areas where scrutiny does not have a dedicated unit and where the function is shared between officers. If it not seen as core to what they do, it simply waits. That is where members' frustrations start to develop and that is where you do not get effective scrutiny.

Guidelines on what suits which particular types of council in terms of scrutiny support would be useful. I do not know whether that is the sort of thing you have, Jacqui.



Jacqui McKinlay: We had it in the past, but there has been a lack of resources.

Q24 **Helen Hayes:** In your view, do officers supporting scrutiny have sufficient freedom and independence to help committee members to prepare for questioning on a range of topics and to help them prepare for questioning of staff and executive members as well? This is coming back to that issue about challenge and about having the evidence and the briefing you need in order to be able to ask probing and challenging questions.

Jacqui McKinlay: It is a similar answer to the previous question: if they are senior enough, or have enough experience of how to manage a committee and how to get the best out of them. I am sure you get very good support here. There is something about acknowledging that you only get a limited amount of time in this sort of environment to do an inquiry, in terms of how you approach it. If you have a good officer with the resilience, determination and influencing skills to work across an organisation and get the information that is needed, that will work very well.

I describe it as councils having an A team. We have a big thing that needs to happen: we need to review what is going to happen with libraries; we have a hospital closure that has just been announced. Part of that A team should be your scrutiny lead that says, "In order to make an impact, our contribution to this could look like this. I will work with the committee and advise". You hand that over for the committee. You are also, with that person, helping to look at what question strategies look like, how you are going to do that, and what information and evidence you need.

The less experienced person can tend to have less confidence in dealing with the organisation and influencing. That will lead to a review that will be much less effective. Unless they have got that, then it will have a big impact.

Cllr Overton: It is about the support and political cover that the officers are given. That is really significant. If we have an independent chairman and a committee with engaged members determined to get the best, then the officer knows that they have the support and gravitas to be able to go and get the information they need. If their political cover is not there, obviously there is an issue. It is very much about making sure that they are independent, open, honest and transparent processes.

Professor Copus: Those are positive views, and I have experience of identifying exactly those types of positive experience. For officers in particular, it is also fair to say that there is sometimes a problem. They will often be career-minded people who operate within a hierarchical organisation. If their position within that hierarchy is such that they are not taken as seriously or powerfully as they might be, then scrutiny can suffer as a consequence, in terms of access to information. Some officers



might be reluctant to provide members with information that enables them to challenge either the leadership or indeed senior officers above them. All those sorts of dynamics come into the process.

You can guard against those things. Where we have heard the positive story, some of those safeguards are in place. Officers that work for scrutiny must be seen as independent from a hierarchical line management, and they have to be seen as having the clout to be able to get the information they want with no comeback. That is the difficult thing. If the culture of the officer structure is wrong, like we were talking about in the culture of party politics, that can damage scrutiny as well.

Q25 Helen Hayes: Local authority resources are not increasing any time soon, to the best of any of our knowledge. In the light of that complexity and the fact that in an environment of decreasing resources people often feel more vulnerable about their positions, not more secure, what recommendations would you suggest for the protection and enhancement of local authority scrutiny?

Jacqui McKinlay: It is hard to come up with recommendations that impact on culture, so you have to start with powers and regulation. Health scrutiny works because it has the necessary power as to where it should be looking. It is recognised by partners as somewhere they have to go and talk to. There is a referral to the Secretary of State that they can make. You look across to other areas like community safety, flooding and the Environment Agency.

We need to look at the power of scrutiny to follow the council pound. Until scrutiny is given that power, which follows through access to information and the ability to make that transparent, to focus on issues that are most important, it will struggle in this very different changing world. It is not just about bringing Joe in from the highways team anymore. Joe now works for Amy or whoever is out there. We need to recognise that delivery looks very different.

Also, the power of scrutiny is to have that system-wide view. It is to recognise that issues relating to domestic violence cover everything from housing to social care to health. If it is given the power, it does not necessarily mean that people turn up, but it gets the foot in the door and gives it the credibility. That would be number one. Number two is money to make it happen, but that would really make a difference and make some people engage more than they do now.

Professor Copus: That is absolutely right. It is the power to access the information that councillors want. One thing that is becoming very clear is that councillors are spending more and more time looking outside of their organisation, in all sorts of ways. They are looking inside and dealing with all sorts of different public and private bodies. The power to ensure that scrutiny has the information it needs to conduct its inquiries from external bodies is needed, as well as the power from internal bodies.



The framework that exists around health scrutiny has much more focused requirements around what scrutiny can do than exists for almost every other type of scrutiny. There is a need to look at that framework and shift it generally, so that it covers the whole of the scrutiny function. Certainly the powers to access information and ensure that witnesses attend, or that evidence is provided in the way that is required, are needed.

The final bit is this thorny question of what happens to recommendations, because scrutiny can spend a lot of time and a lot of resources looking at particular issues. There may not be the power to follow that up. Internally there has to be a response, and executives meet. If you are focused externally and trying to shape what a whole host of external bodies do, there needs to be a requirement on those bodies to play the game and respond at the end of an inquiry. If target organisations do not like these very worthy and extremely valuable reports, then they can simply walk away and ignore them.

The one thing that we do know, which is often underplayed, is that our councillors are the only people within that fractured environment of making public policy decisions that come with an elected mandate. If they cannot access the information that they need, and if they cannot force the change that they think is right for their areas, then who can?

Cllr Overton: I support all of what has just been said. We will probably come on to this later, but the power to be able to call witnesses of the right level within the organisation and to be able to access the data is important. Some of these bodies are not open to the Freedom of Information Act. Some of the health data is sometimes difficult to access as well.

There must be resources to make sure that there is adequate funding for the staff and for the work to be done. The annual report should be public and debated fully at full council. There should be processes to make sure the committee structure is independent and transparent.

The other thing that would be good is if we could get the media and the public more engaged in council scrutiny, as they are in the Select Committees. You do really well on that. Very often you make the public press in a big way because you are making significant recommendations. Council scrutiny should have the same kudos. We are doing the same job and I would like to see that have much more strength. That would help the politics of the situation, because everybody would be able to see the best way forward. Hopefully, that would bring buy-in from all, including the executive members.

Q26 Liz Twist: Listening to you talking about scrutiny officers, it seems to me that there is a wide variation in terms of what people understand by a scrutiny officer. I am just wondering whether there is any point in having a common role description, so that everybody would know it is not just an admin person; it is someone who has those greater powers to ask questions. I am just wondering what you thought about that.



Jacqui McKinlay: The Association of Democratic Services Officers has a module around scrutiny officers and support, and what that looks like. There is part of a qualification attached to that. The element of professionalisation during the 2010s focused on that. We do a lot of training and a lot of support for scrutiny officers and scrutiny members. "What does good scrutiny look like?" is probably the question to ask, and then who do you need and what skills do you need, both at an officer and a member level. "What does good scrutiny look like?" or "What is scrutiny for?" is the bit we do not tend to answer that well. INLOGOV and others do training for scrutiny officers. Again, that has got a bit lost over the last few years.

Q27 **Liz Twist:** So why we do we end up with this variation?

Jacqui McKinlay: The variation comes down to the very different situations in each organisation. You will tend to find you will get your archetypal very good scrutiny officer, who will probably be a county person, talking to another county person, or someone from a big city met. That is how they are set up. You will tend to get that in the bigger organisations. You will also have very similar conversations happening in some of the smaller organisations, where you will get the "Is this as bad here as it is in your place?" That is a councillor view as well.

Q28 **Liz Twist:** If I can just come on to accessing information, which has been one of the things that you have talked about. Are scrutiny committees too reliant on the testimonies of council officers, who could be said to be defending the status quo? Do they make enough use of external experts?

Professor Copus: In some councils the answer is yes, they are too reliant on officers and too reliant on a single source of advice. In too many councils the flexibility that scrutiny has over the committee system is not used. I made the point earlier that sometimes, when you examine scrutiny agendas and scrutiny reports, and observe scrutiny meetings, what you see is a committee, and a one-off event that leads to not very much.

In other councils, those that have really supported and understood scrutiny, you get a process, much like this. It is a Select Committee style of inquiry where there are terms of reference, an objective to the review and different events where members will listen to witnesses or observe certain practices. I have heard cases of members sitting on a Saturday night in a busy A&E department to observe what is happening and experience some of the problems that they were trying to understand and deal with.

Where you get scrutiny viewed as not a single event but a process, then the outcomes are much more effective, and there is a greater access to a wider range. What scrutiny should be doing is not taking one source of evidence and going, "That is from the officers. Great. That is okay. We agree the recommendations". They should be looking at conflicting evidence. There is always conflicting evidence with big policy issues. They



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need to sift that evidence. They need to have support in being able to challenge the evidence that is before them and call for alternatives. Where that does happen, through a series of events, scrutiny is inevitably better for it. That would be the answer. In some councils there is absolutely far too much reliance on a single source of evidence that comes from officers. In others the reins are off and scrutiny asks for information from wherever it thinks it will be valuable.

Jacqui McKinlay: We often get asked the question, "How can we be assured?" Very often the ultimate test of that is around looked-after children or safeguarding. How can we be assured that children are safe in this borough? Our general answer is, if the director of social services is the only person who has told you that, then do not be. After Rotherham, we produced a publication called "Hiding in plain sight: barriers to effective local scrutiny". If you looked at the data and the evidence, it was there.

There can be a view, "We will just listen to the officer", or "We will just listen to the cabinet member", and not go through the process that Colin said, or not test. There will always be an element of gut instinct here, but you need to evidence your assurance. That cannot ever just be one source of information.

The challenge is that the report sometimes will be 70 pages. There will be a lot of professional-speak in there. How do scrutiny committees get the confidence to apply their skills and their unique approach to that, in order to get the assurance? That is sometimes a bit more art than science, but they should never be relying on single sources. To get that confidence to spot a trend, they need to call on other evidence.

Cllr Overton: I will just come back on a couple of those things. It is absolutely right that it is very important to triangulate the data. That is part of what scrutiny is about. Some councils have gone back to committees. They felt that was more engaging for their members because they were actually making the decisions. That is fine. However, one of the issues about scrutiny is that the whole point is that you can call all kinds of different witnesses. I think the new committees are taking it up. You are not just sitting, looking at the papers that you have been fed.

When it was introduced, it was intended to be a release, with the ability to look at a much wider range of partner bodies, whether it is Anglian Water, electricity people, or other bodies that councils traditionally had left and only looked at themselves. Those principles are being incorporated where they have gone into a new committee. The point is that those principles are important.

The other thing that has helped a lot is having the task and finish groups, with a set piece of work on a small section. They do not just go to the scrutiny meetings, but actually have another set of work with maybe eight members involved. That really gets to the root and branch of the



details of the facts of the matter. The feedback we get from members is that that is the best scrutiny they have been involved with. They really got to understand the issue. They got to interview whoever they wanted, at all different levels within those organisations, and come to some conclusions based on a lot of factual and anecdotal evidence. They made recommendations that should genuinely change lives for the better.

Q29 Liz Twist: So the information is key to scrutiny. Do you think that scrutiny committees have access to all the information that they need? How do they know what they need?

Cllr Overton: How we know what we need comes from asking one person; one thing leads to another, to some extent. You start off with your scoping. I always like to start with issues that are really important to my residents: what are residents telling me at the moment? Can we get that on scrutiny and get a better outcome? Clearly there must be times when we have missed things, but we are pretty thorough if we get a task and finish group running. We come to barriers if the information is not available or the organisation is not subject to a requirement to give us that and choose to withhold it. We then come up against barriers.

Q30 Mr Prisk: On that specific point, what training does the LGA provide councillors who are looking to understand how best to challenge one view?

Cllr Overton: We do employ the Centre for Public Scrutiny at times. Also, we have the peer structure. We have councillors who are accredited, so selected and trained specifically to help train members. They will go and sit at the back of a meeting, and then after the meeting give some feedback and advice. Some councils, like Dorset and Lincolnshire, have undergone whole reviews of their scrutiny process. We have had quite a lot of extra support in to get to grips with it. That is for members—questioning techniques and that sort of thing—as well as for chairmen. It has made a significant difference for us.

Jacqui McKinlay: Just to pick up on that, there are usually two forms of training. One is the generic skills element—questioning skills, and understanding data and performance management information. We then also run training, which is around children's services, understanding health and social care integration, whatever it might be. We are getting into the nitty-gritty then to give people enough knowledge. To go back to the point before, it is about who comes forward and accesses that. The people who come forward and access that tend to come from good organisations.

Mr Prisk: That is a good point.

Jacqui McKinlay: Can I just pick up on that? On information, I absolutely agree. There is a well-trodden path around how to do a very good scrutiny review and how to do good scrutiny. On behalf of the LGA, we are just working on a scrutiny guide around children and alternative



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delivery vehicles. That has a vast number of questions that we recommend you ask about accountability and so on. There is lots there.

Whether people can access the information is the next point. Every councillor I meet will talk about the barrier of commercial confidentiality. They will talk about, "We cannot give that information" and a lack of transparency. It can happen internally, although that should be less of an issue if you have got the right levers to pull. As soon as you go outside the organisation sometimes there is this unbelievable barrier, which is that people do not recognise they are contracting with a democratic organisation that has democratic governance processes. If you get to the point where you put a scrutiny role in the contract, you have lost the battle; you should be able to influence people.

How information is accessed can be tricky, particularly when you have a very short window and not a lot of resource to go and beat the door down with.

- Q31 **Liz Twist:** That was going to be my next question. Can scrutiny committees follow the council pound and scrutinise those external organisations and partner organisations?

Jacqui McKinlay: The very determined ones can. I met one last week that had put an FOI request in to its own organisation in order to get the information. You should not have to do that, but there are ways there. There needs to be persuasion and influence in order to say, "This is an issue around flooding", or whatever it might be, "that is really important". In the last organisation that I worked in, we did a scrutiny exercise with the chief executive of a hospital trust. He voluntarily came along because it was a very good way of putting across the case. The limitation is that there is no power there, so people can say no very easily.

- Q32 **Liz Twist:** Do committees need powers to be able to access that information?

Jacqui McKinlay: Yes, absolutely.

Professor Copus: Can I just quickly pick up the training point? There is a danger that we end up training councillors to be elected officers, and that has to be avoided. Officers are there to do their role. Councillors require a different type of skill and training. I am a great fan of council officers and I am not unfairly criticising them, but in many cases the training that is provided to members is what officers need members to understand, rather than what members need to understand. You have to be careful about that side of it.

In terms of access to information, I often think, "If someone is willing to give you something you have just asked for, what are they hiding? Why are they being overly enthusiastic?" It is because it is not causing them any problems. The information that scrutiny really needs is the stuff that people are a little bit more reluctant to hand over, whether that is the council itself or an external body. I hear quite often, and it has just been



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mentioned, of councillors using FOIs against their own council for the want of any other way. It is a sign of an immense frustration among members that they have to do that.

Commercial confidentiality is always another cloak behind which people who do not want to provide information can hide. There is a need for a much tighter definition of what is acceptable as an exemption for commercial confidentiality. It is not just not wanting to tell somebody what they have asked you. There needs to be a much tighter definition for scrutiny purposes.

What really is required is a way of enhancing overview and scrutiny committees' right to access information, either from their own council or from outside bodies. In what I wrote, I tended to go to the extreme and argue that there needs to be a change in the law. I also realise that is very unlikely, but I can set out an ideal position. There has to be a way of enhancing what scrutiny can ask for and what it can get, both from its council and from outside bodies.

Cllr Overton: I would like to support that. Councils are used to dealing with confidential information, and we recognise if it is on pink paper it is confidential. There is no question about it. There should not be any problem with sharing information with elected members. We are already under rules.

One of the mechanisms I have seen used is to involve the public and press, and invite them along. This effectively shames the organisation into coming along and presenting themselves. However, this does not solve the problem. We still need better powers.

I would fully support some improved constitutional powers to draw in information and individuals. For example, health scrutiny can call on senior managers and senior staff members and they will come, whereas we cannot do that with others. When trying to resolve, for example, an issue where housing was being prevented because there was insufficient water being supplied, we were unable to get the discussion we wanted about that. That would have helped everybody. Having those powers would make a world of difference.

Q33 **Liz Twist:** Summarising that, are the armchair auditors on the scrutiny committee able to access all the information they need? From what you have said it sounds not.

Cllr Overton: That is correct.

Jacqui McKinlay: Not always.

Professor Copus: Not always, yes.

Q34 **Fiona Onasanya:** Touching on that last point, and going on to governance as well, if they are not able to access that information that you are saying they should have and that would have helped everyone,



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do you think, looking at the committee system and its impacts, that it is working? Do you think councils that have changed to a committee system are having the impact on scrutiny that they hoped that they would?

Cllr Overton: Because they are doing it by committee, it is not really scrutiny. They are actually making the decision. It has a different flavour to it. There are different mechanisms, and each council makes their own mind up. It is right to have flexibility in the system.

The other thing with the Freedom of Information Act is it does not always require the information, even if that organisation is subject to the Freedom of Information Act. They can say, "We have not got it", meaning that it just is not there at the moment, or they can say that it is too expensive to get. However, a lot of data is computerised. I would welcome tightening of that. A much greater freedom of access to information would be helpful. I hope that answers your question.

Q35 **Fiona Onasanya:** Do you think the committee system is an effective way of holding decision-makers to account as it stands?

Cllr Overton: I cannot say. We have both, so I cannot say one is better than the other. The important point is that we have members who are fully engaged in the decision-making process, either through scrutiny or through the committee system. That is the view of the Local Government Association.

Q36 **Fiona Onasanya:** Do you think that the committee system impacts on other scrutiny committees? Do you think it has an impact on them? Do you think they work better together?

Cllr Overton: If we have committees instead of scrutiny, they have to be determined to make sure that they go through the whole process, getting all of the information on the table, investigating the issue and thinking about recommendations that are best for residents. Both systems can work. It is more about making sure that you have the culture and the determination to make it work for residents.

Q37 **Fiona Onasanya:** That deals with a little bit of it. It touches a little bit on policy development, but could you talk to me more about the public engagement? You talked about how it would assist residents.

Cllr Overton: In policy development, yes. I did talk about the Newham example. I am just trying to think of some other examples quickly. We have looked at school transport and whether all children can equally access school transport in places. That kind of thing can make a big difference, because a child could not go to a particular kind of school and now they can. Those are very direct changes for individuals in their lives.

Q38 **Fiona Onasanya:** Looking forward with newly formed combined authorities, what lessons do you think are yet to be learned from the development of scrutiny structures?



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Cllr Overton: With the combined authorities it certainly adds complexity. We have got different councillors from different councils working together, perhaps for the first time, to scrutinise another body, which may be new and more sensitive to scrutiny. It has brought changes.

One of the examples is from Manchester. I think it was your area, was it not? The combined authority was working on how to engage the public and get the messages across about what this combined authority was going to mean. They set up scrutiny prior to its formation. That looked at the communications in all the different councils to see how we could best engage the largest number of members of the public, to make sure they could properly understand what the changes were going to mean.

That is one example where there has had to be a significant change in the way scrutiny is operating with the new combined authorities. There is added complexity with having the mayor with decision-making powers, the council's decision-making powers and the scrutiny. It certainly adds complexity to it.

Professor Copus: You would not have to push me to say which system is best out of the committee system or overview and scrutiny. It is overview and scrutiny. It was a retrograde step that we allowed councils to revert to the committee system, but I understand why that occurred. The problem with the committee system is it is decision-making-based. Ironically, one of the strengths of overview and scrutiny is it is not making decisions. It is about shaping policy and influencing others to take action. The committee system is often far more reliant on officers and less likely to do some of the interesting, experimental stuff that overview and scrutiny can do.

I would argue that it also offers members an illusion of power. If you put your hands up at the end of a meeting you feel, "I am powerful. I am making something happen". I am sure I am not giving any trade secrets away, but most of those decisions are made two nights before in the majority party group meetings. What members do when they come into committee is discuss some of the things and then vote in the way they have already decided to vote. That marginalises opposition, and there is less likely to be cross-party working.

It is a shame that after 15 years, let us say, of experimenting with overview and scrutiny, some members are still not convinced of its potential, because it has not been worked through in their particular councils. They want to return to the committee system. Interestingly enough, I have spoken to some members on councils that have gone back to the committee system and they have said to me, "The committee system is far better. It was far better when we used to have that". You then realise you are talking to a member that was not elected when you had a committee system. The idea—the folklore, if you like—about how good the committee system was has been passed down to members.



There is a failure of scrutiny if members feel that they want to revert to that type of system.

An element of your question was about whether we can have overview and scrutiny and committees at the same time. Yes, absolutely. If a council decides it wants to make decisions through committees, it can also form these more explorative, investigative forums, task and finish groups, scrutiny events of some sort. There is nothing to preclude you from doing that and feeding that into the committee system. You can support it through overview and scrutiny, in much the same way that scrutiny should support an executive.

Just very quickly about combined authorities, we missed a trick with combined authorities. If you take London as a model, there is an elected scrutiny body. The reluctance to have that elected scrutiny body might have been to do with cost, but you can create mechanisms for scrutiny, and combined authorities will need to have these. You could draw on the existing scrutiny committees of the constituent boroughs, and maybe have the chairs of scrutiny creating a joint scrutiny committee, with the sole task of holding the new mayor and cabinet together. The cabinet will consist of the leaders of the constituent boroughs, so there is the party political dynamic.

Like so much when we talk about scrutiny, we often miss a trick. If we do not want to have the expense of elected scrutiny bodies for combined authorities, then drawing on the experiences of scrutiny within the boroughs is absolutely essential. We focused, quite rightly, on enabling the elected mayor to make decisions and get things done, but we also need to focus on how we hold those individuals to account.

Q39 Fiona Onasanya: You were talking about committees before and saying they might have missed a trick there with the combined authority. It may be they are concerned that not only is that another tier of government, but then you have another person to scrutinise what you are saying. The elected mayor should really have a say in what the combined authority is discussing. You also have businesses and partnerships involved. That may be why they felt that that was not necessary.

On the committee front, you are saying that there is scrutiny and so it may not be necessary to revert to that structure. I declared before that I was on a council that had a committee system. With proportionality and getting people's views across, it was felt that if you have a predominant party, although you may have had discussions in your groups, you are still discussing it in an open forum of people to come and add to. You may sit and discuss and hear a different view from other parties and decide, "Actually I need to vote in line with this. The majority is in favour of this". It can potentially go both ways. That is why I am asking if there are lessons to be learned when looking at combined authorities and the committee system.



Jacqui McKinlay: Can I pick up on the public engagement question? That is one that we face as an equal challenge, as we do with information and skills and capacity. This is not just an issue for scrutiny. It is an issue for public services on a much wider basis, about how we engage with the public moving forward. Again, there were lessons around Mid Staffs and Rotherham, in terms of whether voices were heard. I am sure some will be played out as we work through Grenfell and the inquiry there. There are some real challenges about what public engagement looks like in the future. It is not necessarily the village hall where we are expecting people to turn up on a wet Wednesday.

We need to start to accept that when we engage with people they do not necessarily always speak the same language as we do, particularly on contentious issues. People are very angry. They are very upset. In scrutiny and public services generally, we have to think about what engagement looks like in the future. We are also in a digital and social media world where the conversations now, probably in the last six months, are happening in WhatsApp. They were happening in Facebook earlier.

That is something that scrutiny is really going to have to manage if it is going to stay relevant and part of the dialogue. As Colin was saying before, there are very good ways that you can do that. If that is not given the same weight around how scrutiny maintains its relevance in the future, it will start to become less and less relevant to the public. They will start finding different ways to influence decision-making.

Finally on combined authorities, it is very early days. There was a structure that was put in place with a scrutiny committee—that you have to have one, rules around proportionality of membership and the chair must be in opposition, etc. On paper, there is potential there. Capacity of members to operate on lots of different levels is a potential issue. If you are going to put your best member forward, they will tend to have a role there, as well as being a very good, busy ward councillor. That is going to be one issue that we will have to watch.

The second issue is about how they do the job. What do they scrutinise? They are finding a unique focus, but the powers will be the limiting factor again, potentially. It needs to be system-wide. It needs to have freedom to call in the regional schools commissioner or the LEP chair. There will be some challenges, but it does feel like it is a bit too early.

Cllr Overton: One other point on the combined authorities is about the scrutiny being politically representative of the elected members in the area as a whole. That can be quite tricky for independent members who are not members of a party. When they set up the police panels they said they had to be politically representative. In some areas they have counted how many elected independent councillors there are and put that proportion on the panel. That needs to be done for this as well, for the scrutiny that is set up for the combined authorities. You cannot exclude



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what, in some areas, can be a third of the members who are elected and represent their public. It is important to have it genuinely cross-party for those bodies.

Q40 Chair: I will just pick up two final points. We talked about the skills that members have or have not got in being members of scrutiny committees. It is slightly strange, is it not, that, in order to make a decision about building 50 houses on a plot of land, councillors have to go through a training course to sit on the planning board or planning committee that makes the decision, but to make recommendations about housing strategy for the whole of a council area you do not need any training at all? It may be on offer, but you do not have to take it. Should there be a requirement to be trained before you are allowed to sit on a scrutiny committee and make these recommendations?

Professor Copus: The issue of compulsory training for councillors, some of whom may work or have families, all those sorts of things—

Chair: Okay, but to go on a planning board you have to have it.

Professor Copus: To be on a planning board, that is absolutely right. In essence, that is right. There should be training provided. The difficulty comes as to whether you address that issue of whether it should be compulsory or not. Should members who sit on an education committee be trained somehow in education issues? There comes a point when local government is also about the layperson's view. You get strength from that idea of bringing in a different set of views. If you are making decisions, that is something quite different. You do need the right skills to be able to do that. As I said, the danger is that you end up training members to be officers. That is problematic.

Jacqui McKinlay: With all the caveats that Colin has pointed out, people should be trained. Scrutiny skills are not natural skills that come to many people. It can only be of benefit. Using the example of safeguarding children, every time a council gets a poor Ofsted, scrutiny will be criticised as part of that. There is a lot of pressure.

After the demise of the Audit Commission, scrutiny's role, while not decision-making, is becoming more and more important. I would like training. I would like some support. You are becoming more exposed in that role, and there are more risks attached to the organisation from not doing it well. Let us maintain absolutely the unique skills that lay members bring to that, but let us equip people with the skills to do the job, whether it is questioning skills or information management, and then given them enough knowledge to have the confidence to do that.

Q41 Chair: Should they have to have the training?

Jacqui McKinlay: Yes.

Cllr Overton: The Local Government Association would not ask for additional restrictions or complications to be put on to councils or



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councillors. However, probably all councillors do have training. Certainly in my experience, they have some training. At the induction following an election, for example, there is a start. There has been quite a lot of encouragement, although not requirement, to take further training and even accreditation for members. I would not see it as a problem, because I feel it is something that we should be doing anyway and probably are doing in most cases.

We do also have training, as we said, for pensions—an extremely large amount of training—foster panels and, as you said, planning. There are a number of areas where councillors already readily undergo quite considerable training. It should not be a problem, but I would not be asking for additional requirements.

- Q42 **Chair:** In terms of the chairs of scrutiny committees, it is a bit like we used to do here, is it not? The executive decides who they would like to chair scrutiny and it happens, through some sort of process. Should we go to the Westminster model in local government now, where chairs of scrutiny committees are elected by councillors on a proportionate basis according to the parties' representation on the council?

Professor Copus: There is no reason why that could not occur.

Jacqui McKinlay: In the past we used to say, "A good chair will override any party politics", etc. However, I think the evidence from the Select Committee experience and the perception of patronage and the perception of a lack of impartiality would be overridden by voting for chairs. It would just create that different dynamic that would really add to it.

Cllr Overton: The Local Government Association has not taken a view on that. As leader of the Independent Group, we have a view about patronages being particularly unhelpful. We would like to see chairs of scrutiny being opposition members where there is an opposition; some councils do not have one. That would at least make a clear statement that it has got to be an independent role, and that this is an important job that has got to be taken independently of party politics to get the best for local people.

- Q43 **Chair:** The LGA has not got a view. What is your view about electing chairs?

Cllr Overton: It is really critical to make sure that the chairman is genuinely independent. It is very difficult. Even where you have got a party member who is as independent as they can be, they can be removed off the committee at no notice. That kind of patronage situation is very difficult to manage.

Professor Copus: Vice-chairs should be elected in the same way by council. That would not be at a full council meeting, but by the process that is used here: a period of time in which members can vote in secret



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for those that they want to be chair of particular committees, including vice-chairs.

Chair: Thank you very much for coming and giving such a broad range of evidence to us this afternoon.