

Communities and Local Government Committee

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

Monday 6 November 2017

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Members present: Mr Clive Betts (Chair); Mike Amesbury; Bob Blackman; Kevin Hollinrake; Andrew Lewer; Fiona Onasanya; Mary Robinson; Liz Twist.

Questions 108-152

Witness

I: Marcus Jones MP, Minister for Local Government, Department for Communities and Local Government.

Examination of witness

Witness: Marcus Jones MP.

Q108 **Chair:** Good afternoon, Minister. Welcome once again to your regular slot.

Mr Jones: I wish I had a season ticket.

Chair: This is the final evidence session of our inquiry into overview and scrutiny in local authorities. Before we start, I ask Committee members to put on the record any particular interests they have that might be relevant to the inquiry. I am a vice-president of the Local Government Association.

Liz Twist: I am a councillor at Gateshead MBC.

Mike Amesbury: I employ a councillor in my office.

Andrew Lewer: So do I.

Bob Blackman: I am a vice-president of the LGA.

Andrew Lewer: I am a vice-president of the LGA.

Q109 **Chair:** Minister, thank you for coming along this afternoon. When the idea of local authority scrutiny first came about, it was during the change from a committee system to a cabinet system. There was almost a



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feeling of, "What do we give Back Benchers to do in this new system? I know; we'll invent something called scrutiny, and hopefully that will keep them quiet." Do you think we have moved on since then?

Mr Jones: I wouldn't put it in those terms, Chair—a situation of just giving Back Benchers something to do. I think that where scrutiny is done properly in local authorities that have the right culture, and where scrutiny is taken seriously, it can perform an excellent function in relation to how the executive works by holding them to account and putting them in a position where they probably make decisions that are more in the interests of the people they represent and local residents than they otherwise might be. We could probably point to a number of quite recent, high-profile examples and say that, had scrutiny been performed in a better way in those local authorities, we possibly would not have had some of those outcomes.

Q110 **Chair:** But have we moved on from the initial days when scrutiny was first established? Fairly narrowly, it was about looking at what an authority or the ruling party in a local authority intended to do, was about to do or was doing, and holding it to account on that basis. Do you think that scrutiny also gives an opportunity to consider wider policy issues and shaping policy in that authority, and seeing it in that sense rather than simply focusing on individual policies as they are implemented?

Mr Jones: I certainly do. Overview and scrutiny committees have two functions. The first, as you say, is holding the executive to account, but in many ways it can be equally important that scrutiny develops policy in a particular area. To go back to my own experience on a district council, some years ago I was involved in setting up alcohol restriction zones in public areas of that district. In that sense, members worked together cross-party to develop those proposals, which then went to full council. It was regrettable that we did not do that with more things, actually.

Q111 **Chair:** If it is changing and developing as a function in local authorities, do you think the Department ought to have another look at its guidance? The guidance indicating what local authorities should be doing in terms of their scrutiny function has not been updated since 2006.

Mr Jones: It has been some time since we looked at the guidance on scrutiny; you are indeed correct, Chair. The initial evidence that you have taken indicates that in many places scrutiny is working well, but there are also instances in which overview and scrutiny committees could improve. It is therefore important that once we see the outcome of this Committee in the report that you provide, I take those recommendations very seriously. If there are areas where it is sensible and pertinent to update the guidance, we will certainly consider that.

Q112 **Kevin Hollinrake:** Looking at the resources that scrutiny gets, we heard lots of evidence that the executive gets lots of resources, understandably, but we also heard evidence—from the Centre for Policy Studies, for example—that there are significantly fewer dedicated scrutiny officers, dropping below one full-time equivalent. Does it have the priority it needs to be effective, in terms of resources?



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Mr Jones: You make a very good point because, in terms of scrutiny function, it is not something that is a “nice to do” for a local authority; it is a statutory obligation. Indeed, you are right that, in terms of that statutory obligation, people should be taking scrutiny seriously and resourcing it appropriately. Also, going back to the point I made at the start, there are a number of high-profile cases now where we are actually seeing scrutiny improving the decisions that councils are making. I think that Rotherham is a case in point, where the scrutiny function is really working well and you have got an executive that can see the worth in that. Again, it comes down to the culture and people seeing the worth in having decisions scrutinised, and making sure that those decisions stand up to that scrutiny.

Q113 **Kevin Hollinrake:** Yes, and you have highlighted a case yourself, where, in your own experience, you have taken an issue away and added value to the decision-making process. That all goes well in some local authorities, but others that have a different culture do not appreciate the benefits of scrutiny. How can we make sure that all local authorities prioritise this? Is there a way to protect budgets for scrutiny, for example?

Mr Jones: I do not think it is a situation where we should be going down the route of ring-fencing, for example. It is more a case of making local authorities aware of the benefits of scrutiny and the benefits of making sure that where scrutiny and a good culture is embedded within an authority, the outcomes for local people can be so much better. That is why we, on a number of fronts, including this one, put £21 million to the LGA so that it could support various activities to improve the governance in local authorities; and it is why we are absolutely committed to working with the LGA and its delivery partners—organisations such as the Centre for Public Scrutiny—and to ensuring that we promote the benefits of providing a good scrutiny function and making sure that, where there are areas of good practice, we get that information out and encourage others to follow.

Q114 **Kevin Hollinrake:** You referred to the statutory requirement for a scrutiny officer. That is in a higher-tier authority. Again, the evidence issued to local government said that this had “‘proved largely ineffective’ and that...its influence is minimal and lacking the seniority needed to be taken seriously”, although you say in your evidence that it is hugely important that it is taken seriously. Has that been effective, in terms of a requirement?

Mr Jones: What we have to consider here is that we have not got a scrutiny function that is in the pockets of the executive and the senior management team. We need a scrutiny function where those senior officers have a relationship with the scrutiny function and the people conducting the scrutiny get to see how the executive works and understand the executive, but that does not take away the fact that we need to make sure that scrutiny committees are properly resourced. That is not necessarily, in certain places, about having a dedicated officer; it is more about having access to the information, support and, at times,



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research, to make sure that they do a good job of scrutinising the executive.

Q115 **Kevin Hollinrake:** In terms of culture, do scrutiny officers have the right status within local authorities to be truly effective?

Mr Jones: Again, I think that is about the culture of the council. The good councils that are working the most effectively on behalf of their residents will be ones that respect the scrutiny function and the role of a good scrutiny officer, and that therefore support that function sufficiently well to ensure that there is a twin-track situation of having good scrutiny of the executive's decisions but also the ability to carry out pieces of work to assist the executive.

Q116 **Kevin Hollinrake:** To sum up, you do value the role of a scrutiny officer, and you accept that some councils feel the same but some don't, but you still do not advocate prescription in terms of allocation of resources or the function of scrutiny.

Mr Jones: I believe that should be a matter for each individual local authority to decide, based on its circumstances, but that certainly does not take away from the importance I put on the scrutiny function. As I said earlier, it is really important that we show when places are not using the type of culture that is required in this sense. Where best practice is going on, decision making and outcomes for people are far better. It is in the interest of the executive in any local authority to make sure that they are providing the best decisions and the best services they can for their local residents.

Q117 **Fiona Onasanya:** I want some clarification on a comment you made about not necessarily requiring a dedicated scrutiny officer. Scrutiny, of course, is a statutory obligation, so wasn't the purpose of creating a scrutiny officer to have better scrutiny? I thought that the purpose of that role was to enable better scrutiny. If you are saying that you don't need a dedicated officer, and that therefore the scrutiny of executive decisions does not have to come from a sole person, there seems to be a conflict.

Mr Jones: As I have said, the overriding situation here is about the particular members who are going to scrutinise the executive having the resources they need—the information, research and support—to undertake the scrutiny function. There are situations where clearly that is best done by having a dedicated scrutiny officer, but there are also cases where that does not happen but people are scrutinising the decisions of the executive. It is not necessarily a case of one size fits all; it is a case of ensuring that things are appropriate for the local situation.

Q118 **Fiona Onasanya:** Do you think that possibly some have not been able to appoint a dedicated officer due to limited resources? They might feel that they need it but they aren't able to provide it.

Mr Jones: Where we have a situation where an executive would see the merits in a dedicated scrutiny officer, I would expect that a particular local authority would look to appoint one. If you mandated every single local authority to provide a scrutiny officer, you would not necessarily get the



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outcome you wanted, for example in a council where the culture was not geared towards accepting and working with good scrutiny. You could put in as much resource as you want, but if you haven't got the right culture in a council, scrutiny is not going to work.

Q119 Liz Twist: Minister, on the same theme, one of the issues we have talked to other witnesses about is how councillors get the information they need. On your idea that you can get support from people who are not necessarily dedicated people, I am just wondering whether you think that is the most effective way of members getting the impartial information they need.

Mr Jones: I think it is about having a culture of transparency and openness to get the best out of scrutiny. I will give you an example. When I was in opposition on the district authority of which I was a member, the controlling group at the time had this unfortunate situation where they used to bring out their budget at the budget-setting council in March. They used to bring it out through the cabinet at 4 o'clock. That mini-meeting used to finish at 5 and then we used to go straight into the full council at 6 to approve the budget. Where you have that type of culture, even if you have resource and access to information, you are not going to get the outcomes that are in people's best interests. Rather than necessarily having somebody there to collate, the most important thing is that there is actually access to the information offered up.

To use that example, when I was the leader of that authority for a short period, one of the first things I did was change the process so that we did the budget-setting cabinet the week before the full council to set the budget was undertaken. That gave me a bit more difficulty in some ways politically, but I think it was the right thing to do because it was far more open and transparent and hopefully led to better decisions. Regrettably, that council changed the way it does that back to the old ways after my party was removed from power there, but that is another thing.

Q120 Liz Twist: Thinking of the wide range of scrutiny issues, which could be anything from dustbins to looked-after children, do you think councillors have enough knowledge and information, and know what information is available, to be able to challenge effectively? Do they need more support to do that?

Mr Jones: I certainly accept that councillors in many situations such as that do need support. By definition, councillors are generally lay people in a particular subject, until they have perhaps been a councillor for a long time or have served on an executive in a role relating to that particular subject area, in which case they probably have far more knowledge. However, if we take the base assumption that councillors are asked to make a judgment on something at a particular time, given the information that is put in front of them, you are right: they need the right support and guidance to get that. That can certainly happen through the scrutiny officer but, in my experience, it can also happen through other officers within the council. This brings me back to my point about culture and how



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the officers in a particular authority are asked to approach the situation by the executive.

- Q121 **Mary Robinson:** Minister, you have specifically mentioned scrutiny of budgets. I have been a chair of scrutiny, and I think we would all recognise that there are differences in the way that local authorities scrutinise budgets. What do you think? As that is quite important, should the Government be issuing any guidance about how scrutiny looks at something as important as a budget?

Mr Jones: As I said, it is about culture. Even where the Government sought to be far more prescriptive, if a particular executive did not want to follow that prescription—it would be very difficult to legislate for every single situation in this case—we could still be in a reasonably similar position to where we have not got good scrutiny because of what a particular local authority is doing. We should also take into account that we elect local councillors and local government to have a degree of autonomy so that they can make decisions on behalf of local people. Where a local authority is not allowing scrutiny to happen, that will certainly show and people will ultimately get their chance to say what they think about it at the ballot box.

In my experience, the process of scrutiny is not the most exciting subject to the public—that probably explains the amount of people behind me in the Public Gallery. What is important, however, are the issues being scrutinised. If we were scrutinising adult social care, bins or one of those things today, the Public Gallery would probably be packed. It is about bringing the issues forward, as much as the process; but, again, that is about the culture.

- Q122 **Chair:** Obviously we all agree it is about the culture of an authority, but couldn't there be guidance about how scrutiny should be done, or even something saying, "We have a statutory requirement to have a scrutiny officer, and that officer will be at least full-time"? Could that not at least help to change the culture or reinforce the position of those in authority who want to change the culture and want scrutiny to be effective?

Mr Jones: It is certainly recommended, as you I am sure know, Chair, that places take on an officer to support the scrutiny function. In upper-tier authorities, it is a requirement. As I said at the start of my comments, we are looking at the work that the Select Committee is doing and we are eager to see the recommendations, although at the moment it would have to be a very persuasive argument for the Government to commit to compelling a local authority to have a scrutiny officer where they do not need to currently.

- Q123 **Chair:** But currently the upper-tier authorities have to have a scrutiny officer. We have heard cases where that amounted to a few hours a week, which is almost like them saying, "We know we have got to do it, but we will not really do it in practice; we will just give someone the job and try to pretend that it does not really need to happen."



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Mr Jones: I think that brings me back to the point I have been making: where local authorities want to take that sort of tone and attitude—it is quite legitimate to have someone working 10 or 20 hours a week on scrutiny or someone working full-time on the scrutiny function—it is more about the culture than the time someone has got allotted, bearing in mind that the scrutiny officer would then be to an extent beholden to other officers of the council supporting the work that they do.

Q124 **Bob Blackman:** One feature that you can see from serious service failures across a range of local authorities is that there has been ineffective scrutiny of those services to start with. In many cases where that has happened, suddenly there has been a beefing up of the scrutiny process subsequently. How do you and the Department ensure that scrutiny committees are doing their function properly and effectively?

Mr Jones: As I have said, what we do—guidance is obviously a separate thing—is pay the LGA £21 million to provide a number of services to the Government in relation to how local government is governed. In relation to the scrutiny function, part of the LGA's role is to support the scrutiny function across local authorities, providing guidance and support in that sense.

Q125 **Bob Blackman:** Just so that we as the Committee are clear, is the attitude of the Department, "We are paying the LGA to do this, the LGA does it for us, we do not maintain data or take any view on it, we just let local authorities get on with it"?

Mr Jones: What I am saying is that—I have said it several times during this session—we will look very carefully at the recommendations that are made by the Committee.

Q126 **Bob Blackman:** I am looking at what the Department's attitude is at the moment. Our recommendations will look at the evidence. I am looking at what the Department's attitude is right now to scrutiny in local authorities.

Mr Jones: Our attitude is that it is extremely important. We have seen a number of high-profile cases where—you are absolutely right—scrutiny would have helped. We cannot say that some of the issues would have been completely avoided, but it would have helped if there had been a better scrutiny function. There is statutory guidance for local authorities in relation to scrutiny. We expect them to follow that and to come up with a good culture where the executive is held to account. Where that does not happen, we have the LGA supporting the Government to promote scrutiny, the scrutiny function and the work that scrutiny officers do. As a last resort, we also have best value inspections that we can undertake. We have undertaken those at a number of local authorities. We also have intervention powers that we can use. As you know, Mr Blackman, we have had to step in to take on the functions of a local authority because of the failure of that particular local authority.

Q127 **Bob Blackman:** That is a serious service failure and a failure of the local authority to control its own affairs. But, presumably, there is a process



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you would go through to get to that stage, for example, on data, complaints or something. Out there, the vast audience that is watching these proceedings will be thinking, "How do I complain about the failure of my local authority to provide a proper service in this regard? I don't think the councillors are doing it. What can the Minister do to get something done for us?"

Mr Jones: Of course, scrutiny is one part of this. We also have local authority audit, and each local authority will have an auditor in that sense. We also have a monitoring officer at each local authority, who is responsible for the governance of that authority. Indeed, in terms of the finances, there is a section 151 officer, who is responsible for the accounting of a particular authority. If we become aware through complaints and so on and so forth that within that there could be statutory failure, we have the ability to ask the LGA to look at the governance of a particular authority, to do a peer review, for example. We can then judge whether the complaints or the concerns that have been raised are sufficient to take further action, as we obviously were not hesitant to do in several recent cases.

Q128 **Bob Blackman:** Do you have a register of high-risk councils that you think warrant interference?

Mr Jones: We monitor what is going on in local government, and where we sense that there might be issues or challenges we certainly take steps to look into them to make sure that we do not need to take it further, to investigate and potentially to take action against the local authority.

Q129 **Bob Blackman:** Moving on to another area, I would say that the role of scrutiny falls into three distinct parts. One is looking at the decisions that the executive is making on a month-by-month basis—decisions are being made, let's look at that. The second is looking at decisions the executive may make some weeks ahead, some pre-scrutiny before decisions are made, to improve things. The third area is reviews of services, outside of decision making, which can spot problems. How satisfied are you that local authorities are doing all three of those?

Mr Jones: As I have said, where the culture is good within a local authority and people are getting things right, those things are happening. Indeed, where councils are not stepping up to the mark, those things aren't necessarily happening as well as we would like. I am certainly not complacent in terms of the discussion today and that is why what is going on through this Committee is important. As the Chairman has said, we have not updated the guidance for some years, since 2006, and therefore it will be very interesting to see what the evidence comes back with. We have seen mixed reviews in that sense so far, where some people have come to the Committee saying that they are quite satisfied with the way in which scrutiny works and you have had other witnesses to the Committee who have taken the contrary view. So we will look at the spread of views that have been tabled here, and look at your recommendations and consider them carefully—

Q130 **Bob Blackman:** Do you share my perspective of those three elements of



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scrutiny?

Mr Jones: I certainly do. I think that there are situations—I gave an example to you earlier, Mr Blackman, in terms of my own experience—where it is very difficult to scrutinise something if you are not given the information until the eleventh hour, so to speak. Therefore, the question is: how can you look at something if you are not given the information? I certainly agree with you that shouldn't just be scrutinising decisions that are already made because, in certain cases, there are opportunities to change the way things may be done and to learn from the situation, and also to review whole services—that is very valuable. So I don't disagree with what you advocate.

Q131 **Bob Blackman:** Obviously, we have combined authorities coming in in a much bigger way than has hitherto been the case, with very powerful elected Mayors and often a greater remoteness from the individual elector to the people in power—I think that's a reasonable point. How satisfied are you that the scrutiny committees that are put in place to oversee these powerful elected Mayors are able to operate effectively?

Mr Jones: I consider that the scrutiny arrangements in that sense are stronger than they are for local authorities. I think we were always clear at the outset that a particular combined authority Mayor would be receiving powers, and a level of funding, that could quite well be far more significant than those of an individual authority. Certainly the powers that were being transferred to Mayors were generally powers that hitherto had been held by Secretaries of State and, therefore, on a virtually daily basis when this House was sitting there was a method, potentially, of scrutinising the decisions that were being made, and their outcomes. For example, something we have done is to have a situation where there is a bit more prescription in terms of a chairship, with the chairship being somebody who is not of the party of the Mayor. That is a very important part of the process, to make sure that we are scrutinising the mayoral function.

Q132 **Bob Blackman:** So you are satisfied that we have the right sort of level of scrutiny of directly elected Mayors? For example, in Tower Hamlets—although it is not a combined authority—we had a spectacular service fiasco. Scrutiny was virtually non-existent, I think it is fair to say, in terms of holding the Mayor the account. We have the combined authority in Manchester. I do not know sufficient about what work is going on there to beef that up, but clearly it is a very powerful position. We have other Mayors across the country. This is a new type of operation, regarding the scrutiny function. It is not the same thing as having a leader of a council who is a councillor, elected. It is a Mayor who is directly elected and then there are some people who are overseeing his or her work. That to me is a very different relationship, which needs special arrangements. I am just teasing out whether there is anything there that you think needs reform.

Mr Jones: I think the arrangements that have been put in place are sufficient. That said, and I have mentioned this a number of times, I do not think there is any room, in this sense, for complacency. I would say that, in the same way as we are now talking about the scrutiny



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arrangements from the Local Government Act 2000 having bedded in—they have already been reviewed, in 2006—the question is: should there now be more changes to update things because time moves on? There will legitimately be the question, as time moves on: how have those scrutiny arrangements worked? Do we need to change anything going forward to make sure that we are responding to circumstances that arise?

- Q133 **Chair:** Manchester has been developing its arrangements. The combined authority there has been working for some time. In the West Midlands it is newer, and we had the chair of scrutiny from the Birmingham city region the other day talking to us. I think he said that the scrutiny officer there was very part-time—a few hours a week—and was basically given by Sandwell out of the goodness of their hearts. There wasn't any requirement—there wasn't actually a budget—for it in terms of the combined authority. That doesn't seem to be a great start, does it, in terms of getting effective scrutiny under way?

Mr Jones: We also have to consider in relation to scrutiny that the combined authority that the Mayor heads up is made up of a number of constituent members. In relation to the West Midlands, virtually all those constituent members are made up from leaderships of parties different from that of the elected Mayor. There is no doubt it is important that the particular combined authority make sure that they have a good and strong scrutiny arrangement. In time, I think we will need to see whether that has been the case, but I would expect, when you have the type of political make-up that you have in the West Midlands combined authority, that that scrutiny function would be taken very seriously.

- Q134 **Chair:** Are you comfortable with the current arrangements, with a very part-time officer being donated by one council as the only resource available to scrutinise the whole combined authority?

Mr Jones: As I have said, this is about more than a scrutiny officer; it is about people having access to information and support. I think in that sense it is down to a particular area to work out what works best for them. I think we have got to take on board that it is very early days in terms of the West Midlands combined authority. We should judge the arrangements going forward as that authority matures.

- Q135 **Chair:** So you would expect to see some changes to those arrangements?

Mr Jones: I am not necessarily saying that I expect to see changes. What I am saying is that we have to judge that authority on its actions. I think that the Mayor is so far showing quite a degree of openness and transparency. No doubt the constituent members of that combined authority will want to scrutinise the Mayor's work very strongly. I am therefore confident that they will be keen to ensure that that is actually the case.

- Q136 **Andrew Lewer:** This question as it turns out draws together quite a few of the themes that we have already explored. Is the impact of party politics on local authority scrutiny a concern for you? Should it be DCLG's



business in any case?

Mr Jones: That is a very good point. At the end of the day, scrutiny in my view should be apolitical. It should not involve party politics or the party whip. Where the culture is right, scrutiny is handled in that way. Where the culture is not so good, I have seen examples where party interference has got in the way of good scrutiny. We should also consider—this is something that is more difficult to do anything about—that in places where you have a far finer political balance, quite often they regard the scrutiny function far differently from where you have a one-party state, for example, which is always a challenge. On balance, however, it should be down to a particular local authority to set out its arrangements and the way in which scrutiny is dealt with.

Q137 **Andrew Lewer:** You are uncannily reading my mind, because I was going to reflect on that point. I have experience leading an authority with a majority of one. It had been run by the other party for the 28 years previously. Consequently, I wanted to ask whether you would reflect on the fact that your references to culture are very important. Actually, this whole examination today has been interesting, because it has almost been a DCLG Minister defending localism against the CLG Committee talking about the need for central direction, which is not quite what I expected. Would you agree that the issue cuts both ways? If you have an opposition that is perhaps not used to being in opposition, it may not be culturally attuned to the expectations of objectivity with regard to scrutiny. That in itself will make it difficult for the executive to ensure that proper scrutiny arrangements are in place. The culture is not just from the leadership—it cuts both ways. That is obviously beyond the ruling group's control.

Mr Jones: I quite agree with that. At the end of the day, if an opposition takes a reasonable view on these things and treats the executive with respect, but challenges them when challenge is necessary, rather than just for the sake of challenge, I think you can get to a situation where you have—not much of an agreement politically, probably, but there could be mutual respect. That would serve the scrutiny function well.

Q138 **Andrew Lewer:** Following on from that, do you think committee chairs should be elected by a secret ballot of all councillors or by some d'Hondt regime, or is it reasonable to expect political parties to take that step away from the control of the arrangements?

Mr Jones: I think that is the challenge, is it not? What we should be trying to do here is make scrutiny an apolitical situation, rather than ramping it up into a very political situation. That is the challenge. If we prescribe that the scrutiny chair has to come from a particular political party for a particular reason, that would be a challenge. We could start potentially having votes on these things, but quite often you get people voting for particular individuals for particular reasons. The important thing is that we have the right person chairing a scrutiny committee with the requisite skills, knowledge and acumen to take on the functions and achieve the outcomes that the scrutiny committee needs to achieve.



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Q139 Chair: In combined authorities you specify that the chair of scrutiny has to come from the opposition parties, so the Government have taken a view there. Why the difference in your approach?

Mr Jones: As I said in response to Mr Blackman, when combined authorities were set up it was made clear that there had to be strong accountability because we were not talking about existing arrangements that have been in place for many years; we were talking about new arrangements. A significant level of funding and powers not seen at the local level before were likely to be devolved from the Secretary of State here, who Members of Parliament can hold to account on virtually a daily basis. On that basis, it was decided that we would need a stronger scrutiny function. Over time we will see whether that is more effective or not. If it is far more effective than the current arrangements for other local authorities, perhaps that can be reviewed in time, but we need to see how that beds in and works before coming to any conclusion.

Q140 Chair: Coming back to the method by which someone becomes a scrutiny chair, you said that in elections people vote for people for different reasons—of course they do—but under the current arrangements, often the leader of the council will effectively appoint the scrutiny chair, and they appoint people for different reasons. Some may appoint because they think the person will be an effective scrutiny chair. Others may appoint because they think the person will not cause them too many problems.

Mr Jones: Of course that can happen. As I said, it is down to the culture. As I said in my previous answer, we have chosen to be more prescriptive with how a chairship works in a combined authority area with a directly elected mayor. We would need to see how that performs in terms of holding the executive to account and how the various other functions work out before coming to any further conclusions on that.

Q141 Liz Twist: Minister, do you think there is a sufficient level of public oversight of local enterprise partnerships?

Mr Jones: That is a very good point. Local enterprise partnerships have to have an accountability framework. In terms of the funding and decisions made by local enterprise partnerships, they are not just subject to audit requirements in that sense. They are subject to the scrutiny of a section 151 officer at the local authority that is accountable for that local enterprise partnership. In that sense, there is a level of scrutiny from the local authority level. That can lead to scrutiny through the particular local authority in question that is the accountable body. In that sense, that scrutiny is subject to members of the public getting involved and taking part. Of course, in terms of local government scrutiny, as I am sure you are aware, people can be co-opted on to scrutiny committees.

Q142 Liz Twist: Who should be responsible for monitoring public money spent on LEPs?

Mr Jones: As I say, in terms of the public money that is spent through a local enterprise partnership, there is in most cases a local authority that is



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responsible as the lead authority for that LEP. In that sense, that authority is responsible and there is monitoring through the section 151 officer, and the responsibilities of the executive of that council.

Q143 Liz Twist: But thinking more widely of the authorities covered by a LEP, how do those authorities, representing the public, get involved?

Mr Jones: In that sense, there are LEP boards, which usually have representation on them from the local authorities across the particular local authority area. That is one way in which a particular area can have input in that sense. As I say, you have also got the wider area, which is quite often covered by the responsible authority—quite often the upper-tier authority in an area—which is responsible for monitoring the financial function and the way in which the money is spent by the local enterprise partnership.

Q144 Liz Twist: You have talked about the section 151 officer of the lead authority and you have talked about local authority members being members of the board. What provision is there for the wider public to look at what the LEP is spending our money on?

Mr Jones: The local enterprise partnership clearly takes decisions at its board, and those decisions and the minutes are published. In my area, those board meetings are conducted in public, unless they are on matters that are exempt because of commercial confidentiality. People can, through their local authority members, have mechanisms—as I have mentioned—to hold the LEP to account.

Q145 Liz Twist: What you have described seems quite hands off, if you are a member of the public. We were talking earlier about encouraging members of the public to take an interest. How do you see us strengthening that scrutiny in the wider area? Do you think there are ways in which that can be done?

Mr Jones: As I said at the outset, it is about culture. It is about getting a culture where people are as open and transparent as possible. There are situations with local enterprise partnerships where there are issues of commercial confidentiality, but we have got to be clear that that should be used only when necessary and not as a cover-all to hide behind for any authority, but I think in that sense that it is about scrutiny not just through local authorities but through things like the local press, which is quite able to scrutinise the decisions made and can often give the public a voice through a letters page and so on and so forth to question what is going on in a particular situation.

Q146 Liz Twist: But of course that kind of scrutiny does not get to the heart of the decisions that are being taken when they are being taken. Do you think that there is a more effective way in which there could be greater scrutiny of the decisions taken by LEPs on public moneys?

Mr Jones: As I say, in terms of the scrutiny there are ways in which a LEP can be scrutinised. At this point I do not believe that those arrangements need to be changed, but I will certainly be interested—I know you have asked this of a number of the witnesses at this Committee—in their views



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on local enterprise partnerships. Certainly that will be a Government consideration once the Committee has submitted its report.

Q147 **Liz Twist:** But at present you do not see that they need to be revised?

Mr Jones: As I say, there is a line of accountability, and at this point I do not believe they need to be changed. However, as with any function of governance, that does not mean that, as things go forward, they do not necessarily need to be looked at and refreshed.

Q148 **Liz Twist:** Moving on to the question of information, which we talked about earlier, should it be easier to follow the council pound and gain access to information regarding council services provided by both the council itself and external organisations?

Mr Jones: When councils put contracts out to external bodies, they should look at that in the context of how open and transparent those arrangements can be. That can quite often be difficult because of commercial confidentiality, but, as I say, that should not be a cover-all for everything. I think that that should be considered in the context of when a contract is let, in terms of making sure that a particular provider can be called to a scrutiny committee.

However, when a particular local authority lets a contract to a particular company, I do not think it should lead to a situation where that particular local authority is able to sit back and just blame its contractor. The local authority in question should, when tendering out, put together a process over which it has a level of control that enables it to scrutinise a particular contractor and take enforcement action should that contract not be fulfilled. Ultimately, it is for the particular local authority and the executive in question to answer the questions that the public would quite rightly want to know the answers to in many situations.

Q149 **Liz Twist:** On the local authority having a role in making sure that the providers do what they are supposed to, according to the contract, we heard from a number of people that councils sometimes have difficulty in scrutinising arrangements that have been in one way or another externalised—to third sector or commercial organisations. Do you think there should be legislation to enhance the rights of scrutiny committees to information on the contracts with those outside bodies?

Mr Jones: I think it is for the local area in question to make sure that it takes into account how it would scrutinise and how a member of the public would be able to scrutinise it in relation to a contract it let. We have to be careful, because if we go too far in doing that, it will be nigh on impossible to let a contract. If that is what you want, no doubt a Government could do that, but we should not detract from the fact that, while there are some very good councils providing very good in-house services, there are also some very good councils contracting services out that are provided to a very high standard and quality as well. We should make sure that we do not restrict ourselves too much in that sense.

Q150 **Liz Twist:** But is it not right that the councillors involved in scrutiny in



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those councils that might have let services should have the information that they need to be able to carry out their role?

Mr Jones: I would think that that should be expected. In that sense as well, where there is commercially sensitive information, I should have thought that a scrutiny committee could deal with that as an exempt matter, where the press and the public are not able to listen to those discussions and deliberations. As I say, I think it is sometimes very difficult to actually let a contract and just give all the information out to the public, because of the nature of the commercial sensitivity. That said, we should not allow people to completely hide behind that premise. As much information should be put out to the public as can be.

Q151 **Liz Twist:** If legislation is not the answer to strengthening those rights to information, what is? We have heard that it is a problem.

Mr Jones: As I have said a number of times, it will be interesting to see your recommendations. The Government obviously issue guidance.

Bob Blackman: Be careful what you wish for.

Mr Jones: As I said, Mr Blackman, we will certainly consider the Committee's report. I made no commitment whatsoever to implementing all of the Committee's report. However, through a number of recent reports that the Committee has done—on your private Member's Bill, Mr Blackman, and on the joint work that was done by Ms Hayes, other members of this Committee and the Work and Pensions Committee on supported housing—you can see that we have shown that in situations where we consider the recommendations will add value, we have taken those recommendations on. I would say, "Watch this space"; I will be interested to see what is in the report.

Q152 **Mary Robinson:** There have been some high-profile cases of scrutiny failing—most notably Mid Staffordshire and Rotherham. Louise Casey's report said, "Clearly, if scrutiny is unwelcome and only funded at the behest of those being scrutinised, it is unlikely to be effective." We have talked a lot about the culture, and that is right; the culture, and whether it supports scrutiny, is important here. If the scrutiny is not being supported because of the culture in the council, it is likely that the services that should be monitored are not being carried out to the highest standards either. While local authority councillors go to the polls and are elected or not depending on their record, by the time these failures have taken place it is often too late. In the light of Mid Staffordshire and Rotherham, what action has the Department taken, separately from members of the public who elect their councillors? What action has the Department taken to ensure that scrutiny committees are better able to monitor those statutory services?

Mr Jones: If I take the Mid Staffs situation first, generally the policy responsibility for an NHS Foundation Trust sits with the Department of Health. In that regard, there is a regulator—the CQC—that is responsible for hospital trusts as well. I do not think that a council scrutiny committee is there to replace the regulator in that sense, but there are ways in which



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value can be added to the process by a scrutiny committee. In relation to such things as health, there is the opportunity for a scrutiny committee to mandate a witness to come along and give evidence. There are a number of ways in which certain pieces of work are instigated by local authorities. Particular councillors receiving lots of complaints, for example, from members of the public over the way in which they have been treated in an NHS trust would certainly be one of those triggers, I would think.

In Rotherham, Louise Casey identified some significant failures in relation to the scrutiny function. I do not necessarily think that she put all the failings of that particular council down to the scrutiny function; I think it was more down to the culture of the council, and therein lies the difficulty. A lot of people still advocate for the Audit Commission, but even when we had it—I was not necessarily an advocate for it—it missed some of the serious failures at Rotherham in terms of making sure that changes made in that council were embedded.

Therein lies the challenge we have. I certainly think that a strong scrutiny function is a good way of flagging issues up. In terms of the intervention in Rotherham, as a result of the work that the commissioners have done with that local authority we are now seeing a far stronger scrutiny function that is far more confident in taking on challenges. The executive of the council is far less defensive about the challenge of scrutiny.

In terms of how we get that best practice out—we are very keen to do that, as I said earlier—we are doing that through our partners, particularly the LGA. I think what we must be conscious of is that even in situations where you think you can legislate for all eventualities, there are often cultural issues that you cannot necessarily legislate for. That shows the importance of having other mechanisms by which we can hold failing local authorities to account as well.

Chair: Minister, thank you very much for coming to give evidence to us this afternoon. You will await our report and we will await your response to our report. Hopefully it will be as positive as the ones you have given to us as good examples this afternoon.

Mr Jones: Will the report be on the table shortly, Chairman?

Chair: It will. I certainly think you can expect it before Christmas. We are definite, and we hope that will act as an example to Ministers in future when they come and give us timeframes as well.

Mr Jones: I was asking for that.