

Future challenges for scrutiny



Policy Briefing 1

July 2010

This briefing is intended to provide information (correct at the beginning of August 2010) relating to developing Government policy around local accountability. It also provides advice as to the steps which practitioners might be able to take to influence the development of policy locally around accountability and transparency.

It can be circulated to Members as a briefing note or used as the basis for the discussion of these issues at committee.

These developments apply to England only although there may be elements which are applicable in Wales.

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1. What is happening?

- 1.1 This summer, the developing policy agenda of the coalition Government is becoming clearer. However, the landscape is moving extremely fast and is subject to change. At this stage, the following things have become clear:
- 1.2 Elected police commissioners – we have produced a separate briefing on the Policing White Paper which is available on the CfPS website.
- 1.3 Under the proposals in the White Paper, police authorities will be abolished. The Government has made a commitment to putting in place elected police commissioners to replace police authorities. Elections will take place in 2012, and candidates can be politically affiliated.
- 1.4 Commissioners will have their work scrutinised by new Crime and Police Panels which will consist of local councillors from the Force area (these will, presumably, be Cabinet members – the process for selecting the

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- membership is not yet fully clear, and it is quite possible that Panels will have to decide on their composition themselves). At more local level, Community Safety Partnerships (previously known as CDRPs) will continue. The White Paper makes no mention of crime and disorder scrutiny but does say that it is going to tidy up the regulatory framework sitting around CSPs – whether this will involve a change in the legal powers of scrutiny under the Police and Justice Act remains to be seen.
- 1.5 Legislation is expected in the autumn.
 - 1.6 Health White Paper – the WP indicates that Primary Care Trusts (PCTs) and Strategic Health Authorities (SHAs) will be abolished. In their place, consortia of GPs will directly commission services from various providers (who may be from the public, private or third sectors).
 - 1.7 Local authorities will have enhanced responsibility for public health in the local area, working in partnership with GP consortia and having oversight over the commissioning relationships between GPs and providers. Statutory health and wellbeing boards are being created to exercise this function.
 - 1.8 As part of these proposals, the existing statutory health scrutiny powers are being abolished (ie the powers relating to “substantial variations” in local health services, and the power to make a reference to the Secretary of State). However, a more recent paper published by DH on democratic legitimacy does encourage a certain amount of optimism about the continued role of non-executive councillors and the scrutiny process in carrying out the health scrutiny function.
 - 1.9 LINks are also changing, to become Local HealthWatch, being directly funded by the local authority.
 - 1.10 While the abolition of statutory powers for scrutiny will be disappointing to practitioners, scrutiny can still play an important role as part of the local authority’s public health responsibilities. Scrutineers can – in partnership with Local HealthWatch – investigate these issues and make recommendations accordingly.
 - 1.11 The Health White Paper is explained in more detail in a separate briefing recently published by CfPS. Many of the measures being proposed are expected to be introduced in April 2012 (subject to legislation).

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- 1.12 Abolition of CAA – Comprehensive Area Assessment has now been abolished along with the National Indicator Set and a range of other indicators and targets from central Government. This can be seen as one outcome of the “contract” between local and central Government proposed in the LGA’s recent publication, “Freedom to Lead, Trust to Deliver”. This suggested that local government would be in a position to deliver significant efficiency savings, as long as central Government provided it with more freedom – specifically, relating to inspection and ring-fencing of funding.
- 1.13 Central to this is a system of self-regulation for local government – not a replacement for CAA, but a way to assure improvement. Peer review, offered by Local Government Improvement and Development (LGID, formerly IDeA) will be one part of this. Another important element will be the scrutiny function. There is a strong argument to be made that scrutiny can and should play a central role in investigating issues of local concern, focusing on improvement, in order to bolster the ability of the authority and its partners to make services better.
- 1.14 Place-based budgeting / community budgeting – this was formerly known as Total Place (CfPS has produced a separate briefing on this subject and is planning a detailed report for publication in September). This is likely to bring significant changes to the way services are delivered in local areas, with decision-making moving away from individual organisations into partnership structures, and with budgets, staff and assets such as offices being shared.
- 1.15 Financial cutbacks – the context for all of the above changes will be the need to cut around 25% from budgets of public sector organisations. The pressure to make cuts will increase significantly in early October with the Comprehensive Spending Review and may mean that some of the changes identified above may, in fact, happen very quickly, and possibly in different ways. Along with place-based budgeting, the pressure to make financial cutbacks is likely to lead to more external commissioning of services, a pursuit of opportunities arising from shared services and similar opportunities for closer partnership.
- 1.16 Localism and Decentralisation Bill – the Government will, in December, be introducing into Parliament a Bill to make a number of changes to the operation of local government in England. The Bill is expected to reflect closely the Conservatives’ “Control Shift” Green Paper published in 2009. It is likely to contain proposals to introduce a power of general competence for local authorities, changes to local government finance and

provisions to carry out referenda on elected mayors for the 12 largest cities in England. It will also contain provisions permitting authorities to return to the committee system of decision-making. This is likely to become law in late 2011 or early 2012.

2. What does this mean for scrutiny?

2.1 The implications for these individual changes for scrutiny have been discussed above, but there are more general implications for the future which may be pertinent.

2.2 Increasingly, there will be a requirement that scrutineers think much more flexibly and responsively about the way that they “fit in” to other improvement work being carried out in their area. This is a particular concern at the moment, when fast-moving policy changes will mean that scrutiny has to keep a keen eye on what others in the locality are doing, and identify opportunities to feed in. This has been the thrust of our publication, “Accountability Works” – the idea of a web of accountability, whereby practitioners can liaise with those doing similar work in order to enhance everyone’s capability and expertise, and by so doing to ensure that work carried out is as relevant as possible.

2.3 The issues around flexibility are likely to come into sharp focus in the coming months for the following reasons;

- a. Scrutiny may start to see its “formal” powers being removed – for example, the removal of the statutory function around health services.
- b. Councils may start to consider the benefits of returning to the committee system of decision-making.

2.4 Both of these pressures mean that practitioners may need to start thinking less about structures, and more about the culture of scrutiny within the organisations they work with. This may – in some areas – mean a process that focuses much less on formal committees, providing more capacity to respond flexibly and develop ideas almost exclusively through task and finish groups.

2.5 Relationships and “value added” will be at a premium, rather than scrutiny’s formal powers. An approach which focuses on securing accountability by consensus and agreement, rather than by reference to legislation, may actually add more value and be more influential because it is likely to be perceived as more “helpful”. However, this may require

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- significant changes in thinking both amongst scrutineers and those that they hold to account and will by no means be a risk free enterprise.
- 2.6 Scrutineers, with their other partners in the local web of accountability, may want to see their role as championing, and assisting, culture change in local public services, and constructively challenging proposals when they are put forward around significant organisational change (some of which will involve, in many authorities, cuts to services).
- 2.7 Politics is another key consideration. Local and national, and “small p” and “big p” politics, will impact on how different authorities – and their partners – respond to the challenges they face. Scrutiny members might need to make a distinction between any political responses they might want to make as a result of their party orientation on the one hand, and, on the other, their responsibilities to challenge objectively any proposals coming forward and make recommendations on the basis of evidence and the reality of the position their authority is in at the time. This will be a particular issue when considering issues such as those outlined in section 3.2, below.
3. The contribution that scrutiny could make
- 3.1 What we set out above is a significant challenge. There are a number of practical contributions that scrutiny can make at the moment that could help. Not all of these will be appropriate in every authority, or in every circumstance, but they provide ideas as to how scrutiny can fit within a clear and obvious niche in local decision-making, based on the above risks and opportunities.
- 3.2 Firstly, it can play a role in taking the heat out of decisions being made around service cuts. Scrutiny can provide an objective and robust forum for debate around cuts or service changes. Inevitably much of this discussion will be political, but by providing a framework (through scrutiny) for this debate to happen, it will be more channeled, directed and constructive than it might be otherwise. Executives can and should be encouraged to see scrutiny as a place to test assumptions they make around service delivery and as a neutral broker between the council, its partners, and local people.
- 3.3 Secondly, there may be a case for altering methodologies for some scrutiny work to more closely fit within the prevailing ethos of public services at the moment – the need to deliver “more for less”. Scrutiny could more rigorously use value for money (VFM) methodologies to

evaluate services, or policy development ideas. Scrutiny could also apply cost-benefit analyses to proposals, or to its own recommendations, to test them.¹

- 3.4 Thirdly, with the pressure to make immediate savings, some authorities, and some partners, may be tempted to make decisions which, although they could save money in the short term, might be damaging either to finances or to services (or both) in the future. Scrutiny can continue to scan the policy horizon for the authority and its partners, and to examine the long-term ramifications for decisions being taken now, in order to provide more circumspection to a policy-making process over the next few months which is likely to take place in a febrile atmosphere.
- 3.5 Fourthly, there is a role for scrutiny in pursuing openness in decision-making on behalf of local people, in light of changes to services and of the Government's proposals around devolving more power down to local communities. For example, if a member of the public – or indeed an individual member of the council – has a question about an item of expenditure that has been published on-line, where do they raise that question and who will judge whether it is a reasonable question to which the council should provide an answer? There is a danger with the transparency agenda that it becomes a new Freedom of Information-style burden, with councils being flooded with queries about small items of expenditure, and the public being frustrated that although they have lots of information, they still don't have the power to get things changed. Scrutiny could position itself as having a process for considering such queries to determine whether, in the light of the whole picture of council expenditure, they illustrate a real problem that needs to be addressed. Councillor Call for Action could be one such route, through ward councillors. Building public views and consultation into the budget scrutiny process could be another. It might threaten a great deal of work for scrutiny but could help position it at the heart of the new transparency and accountability agenda.

4. What is CfPS doing to influence this agenda?

- 4.1 CfPS has been running a campaign called "Accountability Works" since April which aims to promote the value of scrutiny and accountability, particularly at a time when it can be tempting to dispense with it on the grounds of expense or organisational expediency.

¹ Our forthcoming publication on place-based budgets, and our next Library Monitor (being published later this year) will expand on the issue of value for money and cost-benefit analyses being used in scrutiny reviews.

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- 4.2 This autumn we are planning to stage a series of regional events throughout England and Wales. These events are intended for chief executives, senior officers, leaders and senior members, heads of partner organisations and other senior figures in local decision making. Working with scrutiny practitioners from each region (through the National Scrutiny Forum) we will discuss with these people exactly how local accountability can be maintained and strengthened, and the important role that it plays in local democracy. These events will, we hope, be used as a springboard to further more local discussions about these issues in local areas.
 - 4.3 We will also be providing organisations with the opportunity to sign up to an Accountability Charter, which will act as a statement of intent for public bodies, saying that they are committed to the principles of accountability. Practitioners will be able to hold organisations to account on whether they live up to these principles, and we will be providing further information and guidance on this at the end of the summer.
 - 4.4 We are continuing to try to influence the development of policy by engaging with the Government. We are working closely with officers and members at the LGA to ensure that scrutiny plays a central part in the self-regulation framework for local government which will be set out in the coming months.

Further reading

- “Global challenge: local solutions – responses to the recession” (CfPS, 2009)
- “Green Light” (guide to scrutiny and performance management) (CfPS, 2010)
- “Accountability Works” (CfPS, 2010)
- “Cannot find server: reconnecting local accountability” (CfPS, 2010)
- “National survey of overview and scrutiny in local government” (CfPS, 2010)
- “Library Monitor 11: Value for money and cost benefit analysis” (CfPS, 2010, forthcoming)
- “Between a rock and a hard place: accountability and area-based budgets” (CfPS, 2010, forthcoming)
- “Freedom to lead: trust to deliver” (LGA, 2009)
- “Control shift” (Conservative Party, 2009)
- “Equity and excellence” (the Health White Paper) (Department of Health, 2010)

Policy briefings from CfPS

The Centre for Public Scrutiny produces a series of policy practice briefings on subjects likely to be of interest to scrutiny practitioners.

- 1 Future challenges for scrutiny (July 2010)
- 2 Scrutiny and place-based budgets / Total Place (July 2010)
- 3 Policing White Paper (August 2010)
- 4 Returning to the committee system of decision-making (August 2010)
- 5 Arguments for keeping dedicated scrutiny officer support (August 2010)

New briefings will be announced during 2010/11.