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Overview and scrutiny in local government

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Summary

Overview and scrutiny committees were established in English and Welsh local authorities by the [Local Government Act 2000](#). They were intended as a counterweight to the new executive structures created by that Act (elected mayors or leaders and cabinets). Their role was to develop and review policy and make recommendations to the council.

Today, the legislative provisions for overview and scrutiny committees for England can be found in the [Localism Act 2011](#). Those for Wales are in the [Local Government \(Wales\) Measure 2011](#), and those for Northern Ireland are in the [Local Government Act \(Northern Ireland\) 2014](#). There are no legislative provisions for overview and scrutiny in Scotland, though many Scottish local authorities do operate scrutiny committees alongside executive structures.

Local authorities also manage processes of 'external scrutiny', where their committees look at issues which lie outside the council's responsibilities. In England, specific powers exist to scrutinise health bodies, community safety partnerships, and Police and Crime Commissioners. Combined authorities are also required to establish overview and scrutiny committees.

1. Background

1.1 The purpose of overview and scrutiny

The concept of ‘overview and scrutiny’ was originally introduced to English and Welsh local authorities by the [Local Government Act 2000](#). Prior to this Act, all local authorities in the UK made decisions through meetings of the full council or of committees; this was known as ‘the committee system’. Typically, a committee managed one or more council services or departments.

The 2000 Act obliged local authorities to adopt political management systems with a separate executive. The ‘executive’ would take the form of a leader, or elected mayor, and a cabinet of no more than nine members.¹ Reflecting the relationship between Parliament and government, the remainder of the council was required to scrutinise the executive by establishing at least one overview and scrutiny committee.² The committee or committees would investigate the policies of the executive and their implementation, issuing reports and drawing attention to shortcomings.

Overview and scrutiny committees may not include members of the council’s executive,³ and their membership should in general reflect the political balance of the local authority.

In June 2019, the Centre for Public Scrutiny published [The Good Scrutiny Guide](#), complementing [new Government statutory guidance](#) for authorities in England, published in May 2019. It contains extensive suggestions on how to conduct overview and scrutiny, covering matters such as workplans, engagement with stakeholders and the public, use of external experts, gathering evidence, engaging with the executive, and making impact on policy. The Centre has published a number of guides for practitioners on specific aspects of overview and scrutiny, which can be accessed on their website.⁴

1.2 Overview and scrutiny in legislation

Since its introduction in 2000, the legislative provision for overview and scrutiny in England and Wales has diverged, and new legislation has been introduced in Northern Ireland. In England, the main provisions can now be found in schedule 2 of the [Localism Act 2011](#), which mostly consolidated previously existing law. For Wales, the main provisions can be found in the [Local Government \(Wales\) Measure 2011](#). Both of these enactments built on the original legislation for overview and scrutiny in the [Local Government Act 2000](#).

Initially, district councils in England and Wales with a population of less than 85,000 had a fourth option of a ‘streamlined committee system’. Councils which adopted this system were still required to establish at

¹ See the Library standard note [Directly-elected mayors](#) for more detail on elected mayors and local authority executives more generally.

² [Local Government Act 2000](#), s.21

³ [Local Government Act 2000](#), s.21(9)

⁴ See <http://www.cfps.org.uk/policy-skills-briefings>

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least one overview and scrutiny committee, which would scrutinise the decision-making committees. The [Localism Act 2011](#) extended this fourth option to all councils in England, and since then many have readopted the committee system. The 2011 Act also removed the obligation for councils using the committee system to have an overview and scrutiny committee, though if they do have one, certain regulations apply.⁵ In Wales, by contrast, the 2011 Measure obliged all councils to adopt either a mayoral or a leader and cabinet system.

Provisions for Northern Ireland were introduced in sections 27-33 of the [Local Government Act \(Northern Ireland\) 2014](#), pertaining to Northern Ireland's eleven new local authorities, which took up their powers on 1 April 2015. Northern Irish local authorities can choose between a committee system and a cabinet-based system: if they choose the latter, they must appoint at least one overview and scrutiny committee (there is no provision for directly-elected mayors in Northern Ireland).

In Scotland, there is no legislative provision for separate executives or for overview and scrutiny committees to scrutinise them. A number of Scottish councils have established multi-party 'cabinets' to take executive decisions, and/or 'scrutiny committees', which are required to examine policies and procedures: but these are founded in local working arrangements. An outline of the current position, together with case studies of Scottish local authorities, can be found in the briefing note [How do Local Authorities Make Decisions?](#), produced by the Scottish Parliament Information Service (SPICe).

1.3 Powers and functions

The legislation in England, Wales and Northern Ireland has much in common as regards the powers and functions of overview and scrutiny committees, including:

- Any member of an overview and scrutiny committee has the right to refer a relevant matter to the committee.⁶ In England, this provision does not apply to matters concerned with planning and licensing, or to "any matter which is vexatious, discriminatory or not reasonable to be included in the agenda";⁷
- Overview and scrutiny committees may hold inquiries and produce reports. Meetings are subject to the normal rules for public admission;
- Overview and scrutiny committees have the power to 'call in' decisions made by their executives.⁸ They may then review a decision and recommend that the council reconsiders it. This power is normally defined to 'key decisions', which are defined in

⁵ See the [Local Authorities \(Overview and Scrutiny Committees\) \(England\) Regulations 2012](#) (SI 2012/1021)

⁶ [Local Government and Public Involvement in Health Act 2007](#) s.119; [Local Government Act \(Northern Ireland\) 2014](#) s.30

⁷ See the [Overview and Scrutiny \(Reference by Councillors\) \(Excluded Matters\) \(England\) Order 2012](#) (SI 2012/1022), regulation 3.

⁸ [Localism Act 2011](#) schedule 2, new section 9F (2a) and 9F (4); [Local Government Act \(Northern Ireland\) 2014](#) s27 (2a) and 27 (4)

law.⁹ The Government guidance implies that call-in would be expected to be used as a last resort when other methods of engagement have failed. Councils will normally specify a window of time after a decision during which this power can be exercised, and a minimum number of councillors to exercise it (for example, five councillors from at least two political parties);

- Committees may require executive members and officers of the authority to appear before them. Individuals from outside the council can be invited, but not compelled, to attend;
- Overview and scrutiny reports must receive a response from the council executive within two months;
- Overview and scrutiny committees cannot oblige either the executive, the council or external bodies to act upon their findings;
- Each authority must appoint at least one 'scrutiny officer'.¹⁰ The *Local Government Act 2000* made no provision for dedicated staff or financial resources for the overview and scrutiny role. However, the scrutiny officer does not have to be a dedicated post, and may be combined with other responsibilities. The Centre for Public Scrutiny's *Good Scrutiny Guide* suggests three different models for officer support.¹¹

Combined authorities

Combined authorities in England are required to establish overview and scrutiny committees by the Cities and Local Government Devolution Act 2016. Further provisions are made by the [Combined Authorities \(Overview and Scrutiny Committees, Access to Information and Audit Committees\) Order 2017](#) (SI 2017/68):

- A majority of the members of such a committee must be councillors from member councils of the combined authority. Members may be co-opted from outside member councils, but they will have no vote. The quorum is two-thirds of the total membership;
- The committee will have power to compel members and officers of the combined authority to attend meetings and answer questions, including the elected mayor if there is one;
- The committee's chair cannot come from the same political party as the mayor – or as the largest party on the combined authority, if the mayor is independent;
- The committee must reflect the political balance of the combined authority's member authorities, as far as possible;
- The combined authority must appoint at least one scrutiny officer;
- The overview and scrutiny committee will be able to call in a decision of the mayor or executive for 14 days. The mayor or executive must respond to any recommendation following a call-in within 10 days of the call-in taking effect;

⁹ For further details see CfPS, [Practice guide 4: key decisions and powers of call-in](#), January 2014. For the definition of 'key decisions' see the [Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012](#) (SI 2012/2089)

¹⁰ [Localism Act 2011](#) schedule 2, section 9FB; [Local Government Act \(Northern Ireland\) 2014](#) s.29.

¹¹ Centre for Public Scrutiny, [Good Scrutiny Guide](#), 2019, p55-56

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- Members of the combined authority (normally meaning the leaders of the member local authorities) cannot sit on the overview and scrutiny committee.

The Centre for Public Scrutiny published a document entitled [Overview and scrutiny in combined authorities: a plain English guide](#) in March 2017.

1.4 Membership

Like other local authority committees, overview and scrutiny committees must reflect the political proportionality of their authority as a whole.¹² For committees which cover the responsibilities of local education authorities, there are provisions to allow religious representatives or parent governor representatives to take part in overview and scrutiny.¹³ Early guidance stated that all but the smallest local authorities should have more than one overview and scrutiny committee, and that they should meet frequently.¹⁴ However, the 2019 guidance does not mention numbers of committees or frequency of meetings.

In Wales, the political balance of the local authority must be taken into account when allocating the chairs of overview and scrutiny committees.¹⁵ This does not apply in England or Northern Ireland, although combined authorities in England must ensure that the members of their scrutiny committees, taken as a whole, reflect the political balance of the authority's membership.¹⁶ The Centre for Public Scrutiny conducted a survey in 2014 which found that, in 65% of respondent councils, all of the scrutiny chair positions were held by the majority party.¹⁷

1.5 Relations with the executive

A key element of overview and scrutiny committees' work is building a relationship with the executive that it is scrutinising. The CfPS's *Good Scrutiny Guide* emphasises the need for an acceptance of scrutiny's role by the council's executive; a willingness to share information; and an understanding that scrutiny will have a political dimension without necessarily mapping entirely on to political party debates.

Practice and guidance have generally steered away from encouraging a directly adversarial relationship between scrutiny and executives. The *Good Scrutiny Guide* says that "while the executive should not direct scrutiny's priorities, scrutiny work will need to reflect at least some of the executive's priorities in order to ensure that it is adding value".¹⁸

¹² See the [Local Authorities \(Committee System\) \(England\) Regulations 2012](#) (SI 2012/1020), regulation 5 (3) (b)

¹³ [Parent Governor Representatives \(England\) Regulations 2001](#) (SI 2001/ 478).

¹⁴ Department for Communities and Local Government, [New Council Constitutions: Guidance to English Local Authorities](#), 2001 ed., para 320

¹⁵ [Local Government \(Wales\) Measure 2011](#), s. 66-75.

¹⁶ See the [Combined Authorities \(Overview and Scrutiny Committees, Access to Information and Audit Committees\) Order 2017](#) (SI 2017/68), paragraph 4

¹⁷ Centre for Public Scrutiny, [Hiding in Plain Sight: barriers to effective council scrutiny](#), 2015, p. 4

¹⁸ Centre for Public Scrutiny, [Good Scrutiny Guide](#), 2019, p12

Government guidance in 2006 stated that political party whipping was 'incompatible' with overview and scrutiny. It also stated that:

Where there is a majority group, local authorities might consider it appropriate to have all or some of these committees chaired by members outside the majority group or by church or parent governor representatives.¹⁹

This point was made in explicit terms in the 2019 guidance:

The executive should not try to exercise control over the work of the scrutiny committee. This could be direct, e.g. by purporting to 'order' scrutiny to look at, or not look at, certain issues, or indirect, e.g. through the use of the whip or as a tool of political patronage, and the committee itself should remember its statutory purpose when carrying out its work. All members and officers should consider the role the scrutiny committee plays to be that of a 'critical friend' not a de facto 'opposition'.²⁰

In Wales, section 78 of the [2011 Measure](#) prohibits whipping from taking place in overview and scrutiny committees. In England, the issue remains at the level of guidance and it is not addressed in legislation or regulations.

¹⁹ Department for Communities and Local Government, [New council constitutions: Guidance to English Local Authorities](#), 2006, paragraph 3

²⁰ MHCLG, [Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities](#), 2019, p9

2. External scrutiny

2.1 Emergence of external scrutiny

The *Local Government Act 2000* provided for a system of overview and scrutiny which was directed solely at the internal functions of the council. However, many committees set up under the new arrangements covered policy areas spanning both the council and other public bodies, and thus began to take an interest in matters outside their council's direct control. This form of overview and scrutiny – examining the influence of other public (and sometimes private) bodies in a policy area of interest to the council – has become known as 'external scrutiny'.

External scrutiny demands a different dynamic from scrutiny of council functions. Councillors who have conducted an enquiry and drafted a report on council functions will be able to influence the outcome of the report through the council's procedures, and potentially through their party group. Councillors have no such direct influence over external bodies. It follows that external scrutiny relies on good relationships and joint working with external bodies to allow the councillors to influence other organisations' behaviour. This is addressed on pages 19-20 and Appendix 3 of the [2019 Government guidance](#).

2.2 External scrutiny: powers

Overview and scrutiny committees have accumulated a number of powers to undertake 'external scrutiny' of specific additional bodies. These include:

- Provision for 'health scrutiny' – of health bodies and authorities.²¹ Local authorities have the power to scrutinise health bodies and providers in their area or to set up joint committees to do so. They can require members or officers of local health bodies to provide information and to attend health scrutiny meetings to answer questions.²² Guidance is available from the Centre for Public Scrutiny's 2016 publication [Solving the Puzzle](#).

These provisions are distinct from the mandatory requirement for local authorities to set up 'health and wellbeing boards';²³

- Provision for a 'crime and disorder committee'.²⁴ These are mandatory committees for all local authorities, which must scrutinise the delivery of crime and disorder strategies. Authorities which are delivering these strategies and which are subject to a report from such a committee must respond to the report and have regard to it when exercising its functions. They are also

²¹ See the [Health and Social Care Act 2012](#), s.190; and previously the [Health and Social Care Act 2001](#) s.7-9, and the [National Health Service Act 2006](#), s.244-6).

²² See regulation 27 of the [Local Authority \(Public Health, Health and Wellbeing Boards and Health Scrutiny\) Regulations 2013](#) (SI 2013/218).

²³ See the Library standard note [Health and Wellbeing Boards \(England\)](#) (SN 06845).

²⁴ See sections 19-22 of the [Police and Justice Act 2006](#).

subject to a requirement to provide information and attend meetings of the committee to answer questions.²⁵

These committees are distinct from the ‘police and crime panels’ that scrutinise directly-elected Police and Crime Commissioners.²⁶ Police and crime panels operate across the whole area of a police authority (which in most cases covers more than one local authority area). The Centre for Public Scrutiny produced a report in January 2014 called [Police and Crime Panels: the first year](#).

Both these types of committee are mandatory in England and Wales.

- In England, regulations oblige the provision of information to an overview and scrutiny committee by a relevant ‘partner authority’.²⁷ Overview and scrutiny committees may require relevant partner authorities to have regard to a report by the committee. These provisions apply in the context of the powers to draw up community strategies under the *Local Government and Public Involvement in Health Act 2007*.
- Regulations governing the scrutiny of flood management expired in April 2018 and have not been replaced.²⁸

2.3 Executive members on scrutiny committees

Proposals have been made for executive members to sit on overview and scrutiny committees during external scrutiny. The case for this in principle is that, when a body outside the council is being scrutinised, the external body, not the council cabinet, is the ‘executive’ that is being scrutinised. This provision was included in the [Local Authorities \(Overview and Scrutiny\) Bill 2009-10](#), but this Bill did not pass through the House of Commons. The idea met with a negative response from the Centre for Public Scrutiny:

CfPS does not support the direct involvement of executive councillors in the scrutiny process, other than through providing information and evidence as part of scrutiny reviews and responding to recommendations. The Local Government Act 2000 established a clear separation of roles for councillors and this should not be ‘blurred’.²⁹

2.4 Local Public Accounts Committees

The Centre for Public Scrutiny published a paper in December 2013 titled [A Local Public Accounts Committee for Every Place](#). The paper aims to contribute to the debate over devolution of power to local authorities and place-based joint working between local service

²⁵ See the [Crime and Disorder \(Overview and Scrutiny\) Regulations 2009](#) (SI 2009/942)

²⁶ See the Library standard note [Police and Crime Commissioners](#) (SN 06104).

²⁷ See the [Local Authorities \(Overview and Scrutiny Committees\) \(England\) Regulations 2012](#) (SI 2012/1021). ‘Relevant partner authorities’ are set out in section 104 of the *Local Government and Public Involvement in Health Act 2007*.

²⁸ See the [Flood Risk Management Overview and Scrutiny Committee \(England\) Regulations 2011](#) (2011/697)

²⁹ Centre for Public Scrutiny, *Response to ‘Strengthening Local Democracy’*, 2009

providers. It proposes the creation of Local Public Accounts Committees (LPACs), responsible for scrutinising public expenditure in a given area. The aim is to allay concerns over effective monitoring of public spending in the event of devolution of funds to local areas. It says:

The local PAC should have the **power to scrutinise all public expenditure in a local area** (with reservations for national policymaking – e.g. around defence and security, some aspects of work and pensions and any other areas where policy-making is wholly centralised). This power could be framed in three ways:

1. The right to have access to any papers or information held by anybody involved in delivering public services and to require representatives to attend meetings to give evidence, using the FOI Act definition around “delivering functions of a public nature” to determine who might be covered by this right;
2. An ‘enter and view’ power over any organisation delivering publicly funded services, using the same definition - a right to access real-time management information, and to directly access and talk to managers and service users ...;
3. A power to use this evidence to make recommendations to any local public service commissioner or provider to which the commissioner / provider would be obliged to respond saying which recommendations they accept and what they plan to do in response, and if they do not accept the recommendations giving reasons why not. The local PAC would have the right to refer any refusal to implement a recommendation they regard as crucial for good governance and value for money to the national PAC for determination or further investigation³⁰

The LPACs would cover the areas of combined authorities, or upper-tier authorities where there was no combined authority. They would have a separate legal personality, instead of being constituted as local government committees or joint committees. The paper also suggested that Members of Parliament could take on a role within the LPACs. They would be funded by a precept sufficient to pay for some 3-4 staff. A councillor would chair the LPAC, and a majority of the members would be councillors: other members could be drawn from non-executives from relevant partner bodies, and possibly members of the public.

The CfPS published a further paper in February 2018 to consult on some of the details of LPACs. This paper suggested that they could be independent or hosted by another institution. Membership could include backbench councillors, co-opted experts and, potentially, MPs. Two further options were also offered on funding: direct funding from Parliament, and a ‘subscription model’ for local organisations subject to the LPAC.

³⁰ CfPS, [A Local Public Accounts Committee for Every Place](#), 2013, p. 4-6; see also CfPS, [Local Public Accounts Committees](#), 2015

3. Analysis of overview and scrutiny

3.1 2019 statutory guidance

The House of Commons Communities and Local Government Committee established an inquiry into overview and scrutiny in January 2017. A report was published in December 2017, which called on the Government to revise its statutory guidance to local authorities on the use of overview and scrutiny committees.³¹ It recommended that authorities should operate an assumption of transparency towards overview and scrutiny committees, and suggested the piloting of elected overview and scrutiny chairs (in the manner of departmental Select Committee chairs).

In response, the Government published new statutory guidance for overview and scrutiny committees in May 2019. It proposed 10 principles that would help to develop a supportive culture for scrutiny:

- **Recognising scrutiny’s legal and democratic legitimacy**
- **Identifying a clear role and focus**
- **Ensuring early and regular engagement between the executive and scrutiny**, for instance via a work programme
- **Managing disagreement**, particularly over party politically contentious issues, for example via an executive-scrutiny protocol
- **Providing the necessary support**, including access to resources and to senior officers where appropriate. County and unitary authorities are required to appoint a statutory scrutiny officer;
- **Ensuring impartial advice from officers**
- **Communicating scrutiny’s role and purpose to the wider authority**
- **Maintaining the interest of full Council in the work of the scrutiny committee**: ensuring that there is a link between full council proceedings and overview and scrutiny
- **Communicating scrutiny’s role to the public**
- **Ensuring scrutiny members are supported in having an independent mindset.**³²

The guidance also states that the selection of members and chairs of overview and scrutiny committees should be selected on the basis of their “experience, expertise, interests, ability to act impartially, ability to work as part of a group, and capacity to serve”.³³ It proposes that councillors should be offered training:

Authorities should ensure committee members are offered induction when they take up their role and ongoing training so they can carry out their responsibilities effectively. Authorities should pay attention to the need to ensure committee members

³¹ Communities and Local Government Committee, *Effectiveness of local authority overview and scrutiny committees*, HC-369 2017-19, 15 December 2017

³² MHCLG, *Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities*, 2019, p8-11

³³ MHCLG, *Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities*, 2019, p15

are aware of their legal powers, and how to prepare for and ask relevant questions at scrutiny sessions.³⁴

3.2 Access to information

The Government's 2019 guidance states that overview and scrutiny committees should have access to information about their authority, particularly on performance, management and risk. They should also seek information from other bodies if appropriate, though they should do this with tact, as external bodies are not, in most cases, obliged to comply with overview and scrutiny procedures. Pages 33 to 35 of the CfPS's [Good Scrutiny Guide](#) contain advice about obtaining and using information.

Local councillors do not have automatic rights of access to all classes of information held by their local authority.³⁵ Schedule 12A to the *Local Government Act 1972* provides for a number of exceptions to general rights to information:

- 1 Information relating to any individual.
- 2 Information which is likely to reveal the identity of an individual.
- 3 Information relating to the financial or business affairs of any particular person (including the authority holding that information).
- 4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
- 5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- 6 Information which reveals that the authority proposes—
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
- 7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Overview and scrutiny committees have slightly broader rights. The provisions permitting information from being withheld do not apply to overview and scrutiny committees regarding information which relates to:

- (i) an action or decision that that member is reviewing or scrutinising; or
- (ii) any review contained in any programme of work of such a committee or sub-committee of such a committee; or

³⁴ MHCLG, [Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities](#), 2019, p16

³⁵ See the [Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012](#), regulation 16 (5)

(b) of a document or part of a document containing advice provided by a political adviser or assistant.³⁶

Councillors are also free to make use of the *Freedom of Information Act 2000* with regard to their own councils' holdings of information.

Case law exists regarding councillors' access to information that does not relate directly to their responsibilities as ward councillors or members of committees. This concerns the 'need to know', a concept at common law:

...if the councillor's motive for seeing documents is indirect, improper or ulterior this [the 'need to know'] may be raised as a bar to their entitlement. Councillors are not, therefore, allowed to go off on a 'fishing expedition' through their council's documents. If a councillor is a member of a particular committee or sub-committee, then they have the right to inspect documents relating to the business of that committee or sub-committee. If not a member of that committee or sub-committee, the councillor would have to show good cause why sight of them is necessary to perform their duties.³⁷

3.3 Commentary

Overview and scrutiny was subject to some criticism in the initial period after its introduction. Critics of the new system included many long-serving councillors, used to participating in decision-making through the committee system, feeling that they were being excluded. There were also perceptions that the Government was more exercised about the role of the executive and related issues such as leadership, visibility and quality of decision-making, than about the checking and reviewing function of overview and scrutiny committees.³⁸

The Centre for Public Scrutiny produced a report in 2015 which suggested that the main blockages to effective scrutiny might equally arise with senior officers or members, and that obstacles tended to be a question of culture rather than overtly political behaviour. The Government's 2019 guidance also makes this point early on:

The prevailing organisational culture, behaviours and attitudes of an authority will largely determine whether its scrutiny function succeeds or fails.Creating a strong organisational culture supports scrutiny work that can add real value by, for example, improving policy-making and the efficient delivery of public services. In contrast, low levels of support for and engagement with the scrutiny function often lead to poor quality and ill-focused work that serves to reinforce the perception that it is of little worth or relevance.³⁹

The Centre for Public Scrutiny has proposed four core principles of effective scrutiny:

³⁶ Ibid., regulation 17

³⁷ David Merson, "[Councillors: rights of access to information](#)", *Local Government Lawyer*, 26 September 2013

³⁸ For instance, see the All Party Parliamentary Local Government Group, [The Role of Councillors: Report of an inquiry](#), June 2007

³⁹ MHCLG, [Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities](#), 2019, p8

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- Provide constructive 'critical friend' challenge;
- Amplify the voices and concerns of the public;
- Be led by independent people who take responsibility for their role;
- Drive improvement in public services.⁴⁰

They also note that councils should determine how overview and scrutiny relates to other sources of information: audit, service user perspectives, consultations, or inspections.

The Wales Audit Office produced a report in 2019 which called for greater consideration of different methods of scrutiny and improved public engagement with the process. It suggested that there was low awareness that overview and scrutiny committees could formulate their own work programmes, and were not obliged to work by receiving regular reports from officers. It suggested:

...in many councils scrutiny has failed to reach its potential and does not yet effectively hold decision makers to account or for example regularly arrive at well-evidenced solutions to recognised problems. This has implications for the robustness of councils' own governance and self-evaluation arrangements.⁴¹

The academics David Wilson and Chris Game stated in 2011 that three conditions were required for overview and scrutiny to realise its full potential. New skills are required which require training in order for them to be:

assessing and probing, working collaboratively to draw out evidence and views from witnesses, and understanding performance indicators, comparative data and financial processes in a way that few will have done previously.

Secondly, councillors have to learn how to work together across party divides:

...it is vital therefore that party 'whipping' and tight disciplinary regimes be relaxed – something that does not come easily to members who may have spent their entire lives opposing just about everything their political opponents stand for.

And lastly, they stated that the existence of a "*dedicated* officer and resource support – in both senses of the adjective" was crucial.⁴²

In 2008 the Labour Government published a White Paper entitled *Communities in Control*. The then Secretary of State, Hazel Blears, announced the Government's ambition to raise the profile of overview and scrutiny committees, making them "analogous to the Select Committees system at national level".⁴³ The White Paper stated that:

...we will make changes to the scrutiny function by:

⁴⁰ Centre for Public Scrutiny, *Good Scrutiny Guide*, 2019, p2

⁴¹ Auditor General for Wales, [Discussion Paper: Six themes to help make scrutiny 'Fit for the Future'](#), February 2019, p10

⁴² David Wilson and Chris Game, *Local Government in the United Kingdom*, 5th ed., 2011, p343-4

⁴³ HC Deb 9 July 2008, c1412

- further enhancing the powers of overview and scrutiny committees in local authorities to require information from partners on a broader range of issues;
- if necessary providing councils in areas with district and county councils with a power to combine resources in 'area' scrutiny committees;
- requiring some dedicated scrutiny resource in county and unitary councils.⁴⁴

The *Local Democracy, Economic Development and Construction Act 2009* included powers for regulations to be made allowing local authorities to establish joint overview and scrutiny committees in England. No regulations have been made to date. The Welsh Government made regulations allowing joint overview and scrutiny committees in 2013.⁴⁵

A proposal to allow committees to require information from 'partner authorities', over and above those set out in section 2.1 above, was included in the [Local Authorities \(Overview and Scrutiny\) Bill 2009-10](#).⁴⁶ This Bill reached Report stage in the Commons, but did not make any further progress.

⁴⁴ Department for Communities and Local Government, [Communities in Control: Real People, Real Power](#), Cm 7427, July 2008, p91

⁴⁵ See the <https://www.legislation.gov.uk/wsi/2013/1050/made> (SI 2013/1050). These were made under Welsh legislation – the [Local Government Measure 2011](#).

⁴⁶ See the [Library research paper on this Bill](#). This was a Private Members' Bill.

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