

Having your say about **health and social care**

A members guide to scrutiny





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What is the purpose of this guide?

This Guide is intended to assist councillors sitting on Select Committee's, particularly Select Committee on Health and Adult Social Care (HASC). It provides an outline to the legislative framework within which scrutiny operates and sets out principles which make the overall management and operation of scrutiny more effective. Moreover, it focuses on the duties and responsibilities arising from HASC's statutory role for Health scrutiny which includes reviewing and scrutinising health services provided or commissioned by local health and social care partners.

1. Difference between Overview and Scrutiny

Under part 2 of the Local Government Act 2000, most Councils were required to develop an Executive and Scrutiny split by June 2002.

The 2000 Act requires that Councils formally recognise two different roles in decision-making, that of the Executive and that of Scrutiny. The role of the Executive is to propose "the policy framework and implement policies within that framework". The role of overview and Scrutiny Councillors is "to represent constituents, share in the policy and budget decisions of the full Council, suggest policy improvements and scrutinise the Executive's policies and policy implementation" to further improve outcomes for the local community.

The council has in place internal mechanisms to ensure that timely action is taken to identify and tackle performance issues. In year performance management inevitably identifies some intractable problems, which require more detailed scrutiny investigation and comparative analysis in order to determine the appropriate remedial action.

The role of scrutiny is to identify these issues, to investigate the problems and to make recommendations to the Executive. This process is likely to involve evidence being given by Councillors, senior officers and, in some instances, external experts.

The principles within Scrutiny strives to operate are:

- Inclusive
- Non adversarial
- Evidence based as opposed to anecdotal
- Factual and unbiased; and
- Open and transparent

Contributing to executive decision-making

The Executive prepares a forward plan that sets out the key decisions it will be taking for at least the next four months. The forward plan is updated frequently on a rolling basis and therefore provides the scrutiny function with basic information on what issues the Executive is due to consider. This includes the council's budget and plans that form the council's policy framework, including the Council plan. Scrutiny councillors can select any of these items for further consideration and scrutiny.

An increasing number of plans are developed under partnership arrangements and include actions and targets to which different agencies contribute. During the development of such plans there is a need to ensure regular communication between Cabinet, Select Committee Chairmen and relevant Scrutiny Committees.

Scrutinising external partners

Local Authority scrutiny powers are not confined to Council services or policies.

With powers being extended to allow the scrutiny of partners and other agencies, there is potential for the Council, and its partners, to review ambitions and priorities; and to ensure that they are truly based on a shared understanding of the local community's needs.

The Local Government Act 2000 asserts scrutiny arrangements should include the power to report 'on matters which affect the authority's area or the inhabitants of that area'. The Local Government and Public Involvement in Health Act 2007 develops the legal framework by creating a clear requirement on all of those bodies placed under the duty to co-operate to appear before the relevant committee within 20 working days in so far as their actions relate to functions or service delivery connected with the authority.

Health Scrutiny

Health Scrutiny is defined in the National Health Service Act 2006 and the Local Government and Public Health Act 2007. It includes provision for representatives of local NHS bodies to be required to attend and provide information to the relevant health scrutiny committee; it also places a duty on them to consult on significant service developments.

In Dudley, the responsibility for Health Scrutiny falls to the Select Committee on Health and Adult Social Care.

In addition, Dudley's Local Involvement Network (LINK) can refer health matters to the Health Scrutiny Committee for consideration.

2. Structure of Scrutiny

The Council has five Select Committees with a key role to review and scrutinise Council and Cabinet decisions. As the Health Scrutiny function falls to Select Committee on Health and Adult Social Care the Committee is able to scrutinise both Council services and those provided and commissioned by local NHS bodies.

Each Select Committee sets its own agenda. There is, however, a meeting of Select Committee Chairmen which meets as required to consider cross cutting scrutiny matters.

3. Making scrutiny work

Scrutiny can be a powerful tool in ensuring that the allocation public resources achieve the best possible outcomes for the local community but only if it is focused.

Each committee has a set number of meetings each year. To make the most of these meetings a scrutiny work plan needs to be agreed at the start of the year with a clear indication of the issues each committee will be aiming to investigate during the year. Each Select Committee will sign off its work plan at its first meeting, and any in-year amendments to it. In order to reflect the dynamic nature of scrutiny work programmes need to be flexible to react to any future developments which may require the attention of the Committee.

The Select Committees reflect two key dimensions of Scrutiny i.e. Policy review and tracking of issues. For example HASC undertakes in-depth reviews on a particular theme and shorter pieces of work that are considered in one or two regular meetings such as Call-ins and contributing to consultations.

Setting up in-depth reviews

In order to ensure select committee items are of added value and contribute to effective service delivery the following principles and criteria should be applied :

Topics for scrutiny investigations should be:

- Specific (pinning down exactly what is to be scrutinised)
- Achievable within the timescale available
- Appropriate for engaging the public, so that scrutiny will mean something definite for Dudley residents.
- Capable of producing some tangible and preferably fairly immediate results.

Other factors to take into consideration when choosing a topic for scrutiny:

- The relative importance of the issue to service users (and non-users), other stakeholders and the general public. This may entail looking at issues raised in members' surgeries, complaints received, results of residents' surveys and other consultative activities to gauge this;
- The degree of impact that scrutiny may make on an issue;
- Where there is evidence of an actual, or imminent or perceived failure in a policy area or in the delivery of a service;
- Where there is evidence of actual or possible future public disquiet or interest in an issue;
- Issues which members and/or officers have suggested as being suitable for scrutiny;
- A direct request from the Executive to scrutinise a particular area – especially where some policy development work could inform the Executive's decision making;
- The length of time and the amount of resources the scrutiny of a particular policy is expected to entail;
- The length of time since previous scrutiny or any other review of performance or an external inspection or investigation (e.g. Audit Commission, Care Quality Commission).
- Scrutiny must not be used as an alternative to normal appeals procedures.

Carrying out in-depth reviews

The HASC has carried out several in-depth investigations (reviews), and though continuous learning has developed a seven step methodology to its reviews:

1. Planning the investigation (see scoping document attached)
2. Collecting evidence
3. Chairing meetings
4. Writing the report
5. Feedback
6. Implementation and review
7. Evaluation

Step 1: Planning the investigation

- Receive background information - background papers and research data is collected from groups and elsewhere by the Scrutiny/Policy officer;
- Initial discussion of the scope of the investigation – discussion of the terms of reference;

- Plan the shape of the scrutiny – decide how many meetings will be required for evidence/deliberation/reporting;
- Setting meeting dates at an early stage is helpful for all concerned and particularly so for planning publicity and inviting external contributors with plenty of notice;
- Identify and contact those organisations being asked to provide written evidence;
- If external contributors or expert witnesses are to be invited to attend, identify dates for this and send invitation to give plenty of notice;
- Send out information about the scrutiny to the services involved –involvement at the planning stage of the investigation may help to prevent misunderstandings of the purpose of the scrutiny at a later stage;
- Plan publicity so that all interested stakeholders have an opportunity to participate;
- Consider the need for training events, inspections of services, visits to other authorities or other activities;
- Set end date for investigation and clarity over outcome to be achieved;
- Where appropriate invite a representative from a partner or outside organisation to take part in the scrutiny review as a special advisor.

Step 2: Collecting Evidence

Written evidence

Committees may decide to obtain written evidence from a wide range of stakeholders at an early stage in the scrutiny investigation. Members can then discuss the content of the evidence received so that decisions can be reached on any further written evidence that may be required and on whom to invite to future committee meetings. Requests should allow sufficient time for a full and informed response to be made – at least ten working days is suggested.

Consideration should be given to the nature of information required, and whether written reports are always necessary. Presentations may be preferred or perhaps, question and answer sessions. Where reports are needed, these should be short, clear and focused, designed to enable information to be easily absorbed and to help debate and inquiry. While members should be persistent in seeking information, it needs to be recognised that it may not always be available.

Oral evidence

Scrutiny committees can require members of the Executive and officers (third tier and above) to appear before them. More junior officers may attend on occasion, accompanied by a senior officer. The committee can invite other people such as representatives from organisations, experts in a particular field, service users or other members of the public to attend. (NHS officers are required to attend health scrutiny committee meetings when invited.) A written request should be sent with at least ten working days notice of the date of the meeting.

Committees may find it useful to invite a relatively small number of people to give oral evidence and answer questions. Time will be at a premium during question and answer sessions and they need to be carefully planned. Committees need to ensure that the time slot provided allows sufficient time for questioning as this is a useful way for members to probe issues in detail. Members may find it useful to have a brief period at the start of the meeting, before calling contributors in, to discuss what questions they are going to ask. Alternatively, contributors could be provided with a list of questions in advance, with supplementary questions then being based on the response given.

The questioning of contributors requires particular skills. Questioning should be aimed at trying to understand and explore issues rather than at catching the contributor out. Members and officers should avoid making statements rather than asking questions. Asking several questions simultaneously can also be unproductive as it makes it more difficult to ensure that all the questions are answered or to ask follow-up questions.

Copies of the notes of the meeting will be sent to all participants, including contributors, in order to check for accuracy. At completion of the investigation, a copy of the final report should also be sent to contributors.

Visits

Visits by members of the committee to speak to individuals or groups can be an extremely valuable part of the process. Visits can also be used to explain the purpose of the scrutiny to external stakeholders and to encourage them to participate. Site visits can also be very useful in helping committees to get to grips with issues.

Step 3: Chairing Meetings

Scrutiny committee meetings are meant to be less formal than the traditional old-style service committee meetings. The meetings should be open, accessible and transparent, with opportunities for informal ways of working and considerable discussion between members and contributors.

The meetings are open to the public, except where the subject under discussion is of a sensitive or confidential nature. Where those giving evidence think this may be the case, they will need to raise this in advance with the committee chair via Democratic Services team. However, there are only limited grounds for holding meetings in private.

The Chair will need to help the committee to keep to agreed timings, ensure that all members of the committee are able to participate fully and that the line of questioning remains focused. Meetings do not necessarily need to take place at the Council House. Other locations can be used as appropriate depending on the subject under discussion.

Step 4: Writing the Report

Officers from the Democratic Services team will take notes of all committee meetings. These notes will provide material to assist with compiling the final report. Members may find it helpful to ask the relevant lead officer of the Committee to produce an interim 'taking stock' report mid-way through the scrutiny to summarise the issues raised to date and outline what else needs to be done.

The final committee report should be evidence-based, presenting a full picture of the issues under scrutiny and reflecting the range of views presented to the committee. They should contain clear recommendations and suggested timescales for implementation and review. Officers and Executive Councillors who have been involved in the scrutiny should be given an opportunity to comment on the draft report. In particular, checks will be made for factual accuracy and to ensure that no confidential information has been inadvertently included. Officers should be given ten working days to prepare a written response.

Step 5: Feedback

It is important to feed back the results and outcome of the scrutiny to all participants and other interested stakeholders, including all councillors. Copies of the report should be disseminated widely - committees can consider what publicity is appropriate in order to inform the general public of the scrutiny outcome.

Step 6: Implementation and Review

Scrutiny committee reports should then be presented to the relevant Executive for consideration. The Executive may invite the scrutiny committee chair to present the report to it. Health scrutiny reports will be sent to the relevant Health and Social Care bodies and relevant officers.

The Scrutiny Overview Committee can take an overview of progress made in implementing agreed recommendations in the same way that it can for other Executive decisions.

Step 7: Evaluation

In order to promote continuous learning in the scrutiny process, it is useful for the members and officers involved with each scrutiny to have a discussion at the end of the investigation to identify what worked well, what worked less well and what, with hindsight, should have been done differently.

Call-in (Pre-implementation scrutiny)

Any elected member of the Committee may refer a decision of an individual Cabinet Member, before it is to be implemented, for pre-decision Scrutiny . This wish must be declared at the Meeting of Select Committee Chairmen, or by writing to the Director of Law and Property within 5 working days from the day of the meeting or date of the decision being published. The Call-in or Decision Implementation of the decision will then normally be deferred until the relevant Scrutiny Panel has had the opportunity to consider the matter.

It is good practice for members to state the rationale for call-in within 2 days of agreeing to the pre-decision scrutiny of the issue. The Decision-taker shall call a meeting of the appropriate Committee in discussion with Director Law and Property.

4. Being clear about roles

Scrutiny: a Councillor-led process

Members of the scrutiny committees determine what evidence they want to receive and what questions they will ask

- Councillors take an active role in the scrutiny process, including talking to stakeholders and service deliverers
- Members explore issues in-depth
- The report of the committee's recommendations is a report of the committee rather than a report to the committee written by officers

Officers

For councillors to be able to lead the scrutiny function effectively with an emphasis on interactive, investigative meetings, they require relevant officer support. Adequate training and advice for both councillors and officers is crucial for ensuring the effectiveness of the new system. This guide is designed to help members, officers, special advisors from the community, and our partner organisations, to embrace their various roles.

Lead Scrutiny Officers

Each scrutiny committee has a lead officer who works with the committee to provide support (with exception to HASC which has its own dedicated Scrutiny officer). This involves briefing members, obtaining evidence documents, analysing evidence, writing briefing papers, preparing questions, liaising with other officers and external contributors and drafting reports. On occasion the HASC has received additional support from external Contributors, independent expert, research, training and various NHS site visits.

Committee Managers

Committee manager support to scrutiny committees is provided by officers in the Democratic Services team who arrange dates and rooms, take detailed notes of the discussion, distribute evidence documents and help organise visits and external contributors.

Officers from Legal Services

Officers from Legal Services will attend scrutiny meetings when required.

Senior Officers

Some officers may be called as contributors to give oral evidence and to answer questions. Senior officers (third tier and above) will be expected to attend when called. More junior officers may attend on occasion, accompanied by a senior officer. Even when not called to give evidence it is envisaged that Directors and/or Executive Heads will attend committee meetings when a service for which they are responsible is being discussed.

Executive Councillors

Scrutiny Committees can ask Executive Councillors to answer questions about specific issues. They should be informed at an early stage about reviews that are set-up wholly or partly within their remit and about possible dates for attending meetings to present evidence and answer questions.

Executive Councillors should be briefed on the range of evidence that a committee has received to date and types of issues that it is considering, so that they can prepare and time is used to best effect. They may also be invited to meetings when a committee's report is being discussed, and to respond to the report at the invitation of the chair.

Members Of The Public

Scrutiny committees are intended to be outward-looking, involving all stakeholders and, in particular, taking account of views of service users and of the public. The views and ideas of service-users (and non-users), service providers and organisations and other agencies with an interest in the topic under review are all valuable in effective scrutiny.

All of HASC's meetings are advertised in local press to encourage public participation at its meetings.

5. Health Scrutiny

HASC's aims are congruent to those of the Centre for Public Scrutiny:

- Strong challenge to Council and partner organisations;
- Ensure services are responsive to the needs of the public;
- Engage the public as active citizens, secure the effective promotion of community well-being at a local level; and
- Develop understanding and good practice through research

Statutory Context

The Health and Social Care Act of 2001 gives statutory provision to local authorities with social services responsibilities to review and scrutinise health services provided or commissioned by NHS trusts. Local authorities established such scrutiny committees with effect from January 2003.

Health Scrutiny Committees have has two main statutory roles:

- To review and scrutinise substantial variations of services as proposed by the local health trusts – HASC has previously established Joint arrangements with Walsall's Scrutiny Committee regarding Mental Health.
- To review and scrutinise topics of concern or interest as identified by members of the Committee.

Health Scrutiny Committees also have responsibilities to:

- Participate in joint health scrutiny committees where the service changes proposed by an NHS trust affect more than one local authority area
- Contribute to performance assessments of NHS bodies
- Respond to matters referred by Local Involvement Networks

Substantial Variation

Guidance states that in considering whether the proposal is substantial, NHS bodies, committees and stakeholders should consider generally the impact of the change upon patients, carers and the public who use or have the potential to use a service.

If a Health Scrutiny Committee considers that the changes proposed constitute a substantial variation of services, the NHS trust is required to undertake public and stakeholder consultation.

Co-operation of Partners

A Health Scrutiny Committee require officers of NHS trusts to attend before the Committee to answer questions about health issues.

NHS officers have a duty to respond to these requests for attendance. The Committee cannot require General Practitioners, dentists, pharmacists or those providing ophthalmic services to attend meetings as they are not officers of an NHS trust. However in practice such professionals have been pro-active and contribute to scrutiny as expert advisors/witnesses.

A Health Scrutiny Committee can refer matters to the Secretary of State for Health if it is not satisfied:

- with the content of the consultation or the time that has been allowed
- that the reasons given for not carrying out consultation are adequate
- that the proposal is in the interests of the health service in its area.

If a matter is referred to the Secretary of State it may be referred to the Independent Reconfiguration Panel, the local trusts may be asked to reconsider the matter, or the Secretary may make the final decisions.

A Health Scrutiny Committee will make reports and recommendations to NHS trusts and other related bodies e.g. regional health authorities. The minutes and reports go in the public domain. Scrutiny committee meetings are held in public but are not public meetings: there are exemptions for confidential information. NHS trusts have 28 days to respond to Committee reports and recommendations.

Joint Committees

Where an NHS organisation is consulting on a substantial variation which crosses local authority boundaries, it is incumbent on the Committee's affected by the proposals to form a Joint Scrutiny Committee to address the matter. A common criterion for Joint membership is the number of patients in each borough / district affected by the proposals

KEY LOCAL HEALTH BODIES

DUDLEY NHS (FORMERLY DUDLEY PRIMARY CARE TRUST)

The Dudley Primary Care Trust is responsible for:

- Assessing the health needs of all the people in the local area and developing an insight into the needs of the local community.
- Commissioning (buying) the right services, for instance from GP practices, hospitals and dentists, to meet these needs.

- Improving the overall health of the local community.
- Ensuring these services can be accessed by everyone who needs them.
- Listening to patients' views on services and acting on them.
- Making sure that the organisations providing these services, including social care organisations, are working together effectively.
- Carrying out an annual assessment of GP practices in the area.

Dudley NHS IS responsible for making improvements to local health services across this part of the Black Country. The PCT covers the Borough of Dudley and provides services to approx 310,000 residents.

The PCT area covers 56 general GP practices and 40 dental surgeries, 40 ophthalmic premises, 60 pharmacy premises and we directly employ more than 1800 people, (headcount) over 900 of whom provide community based healthcare across 27 nursing teams, and over 600 provide mental health and learning disability services across the borough.

PCT services include 24 hour district nursing, health visiting, mental health, adults' and children's learning disabilities, podiatry, audiology, school nurses, continence, speech and language therapy and occupational therapy.

Further information can be found on its website: www.dudley.nhs.uk

DUDLEY GROUP OF HOSPITALS FOUNDATION TRUST

The Dudley Group of Hospitals is a relatively new PFI acute general hospital. The Dudley Group of Hospitals NHS Trust provides a wide range of medical, surgical and rehabilitation services to the people of Dudley and surrounding areas.

With one inpatient hospital (Russells Hall Hospital) in the centre of Dudley, and two Hospital Outpatient Centres at the Guest and Corbett sites (based in Dudley and Stourbridge respectively), the Trust provides care and treatment for approximately 400,000 people.

For more detail please visit www.dgoh.nhs.uk

WEST MIDLANDS AMBULANCE SERVICE

The current Ambulance Service serving the West Midlands region commenced operations on 1st July 2006, with Hereford & Worcester, Coventry & Warwickshire, WMAS and Shropshire merging to form a Regional Ambulance Service. Staffordshire merged with the new Trust on October 1st 2007.

Further information can be found at www.wmas.nhs.uk

DUDLEY WALSHAL MENTAL HEALTH PARTERSHIP TRUST

Created in 2008 the new Dudley and Walsall Mental Health NHS Trust serves a population of approximately 558,000 people and employs approximately 1200 staff. It provides the following services:

- All community and inpatient general mental health services for adults of working age.
- All community and inpatient mental health services for Older People.
- All existing health-provided Child and Adolescent Mental Health Services (CAMHS)
- Substance misuse services.
- Psychology services for people with mental health problems.
- Mental Health social care services are managed by the Trust on behalf of the Local Authorities via formal partnerhsip agreements.

Inpatient services are provided from three main sites:

- Dorothy Pattison Hospital in Walsall
- Bloxwich Hospital in Walsall
- Bushey Fields Hospital in Dudley

Its community services are located across both boroughs in a range of locally-based premises, many of which are shared with primary care services.

Further information about mental health services in Dudley and Walsall, can be accessed on its web-site: www.dwmh.nhs.uk

LOCAL INVOLVEMENT NETWORKS (LINKs)

Defined in the Local Government and Public Health Act 2007, LINKs are made up of individuals and community groups designed with the purpose of giving the public a stronger voice in the way their health and social care services are delivered. To enhance their autonomy, LINKs must be hosted by an independent body – Shaw Trust hosts Dudley's LINK.

LINKs are seen as a key component of locally accountable health and social care and so HASC will have a general interest in ensuring arrangements for LINK activities are effective in Dudley. In addition, embedding relationships with the LINK will enable HASC to attain a better understanding of community priorities.

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