

Overview & Scrutiny Committee

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Report title	Scrutiny Protocol
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Report has been considered by	Executive Board - 10 January 2024

Recommendation(s) for action or decision:

The Overview & Scrutiny Committee is recommended to:

- (1) Note the publication of the Department for Housing, Levelling Up & Communities' Scrutiny Protocol on 22 November 2023.
- (2) Agree that committee members participate in workshops to further strengthen and develop the WMCA's scrutiny function to meet the standards set out within the protocol's 18 key principles.

1. Purpose

- 1.1 To update the committee on the publication of the Scrutiny Protocol and to set out the next steps that will be undertaken to ensure that a sustained culture of scrutiny is embedded within the WMCA to ensure transparent and accountable decision-making and delivery of value for money on devolved funds.

2. Background

- 2.1 At its meeting on 10 July 2023, the committee considered a report that set out the activity and developments that had occurred relating to the WMCA's Deeper Devolution Deal announced by the Government in March. The deal provides for wide ranging provisions to devolve policy making and control over spending decisions to the region, including by bringing additional investment. Within the Deeper Devolution Deal agreement text itself, the Government set out more clearly its 'accountability' expectations in respect of the West Midlands:

The WMCA will, through this deal, be subject to three levels of accountability:

- (a) As a local authority, it is subject to the requirements of the Local Government Accountability Framework.*
- (b) As an institution with devolved powers, the WMCA will be subject to the English Devolution Accountability Framework which details additional accountability processes for all institutions with devolved powers and highlights those requirements of the Local Government Accountability Framework which are of particular significance for such institutions, including the decisions that mayoral combined authorities are responsible for and the recourse available to the Government.*
- (c) In light of the specific new powers being agreed in this trailblazer deeper devolution deal, including the single settlement, and in the spirit of greater power requiring greater accountability, the WMCA commits to building a culture of greater scrutiny and accountability through the proposals set out in this section.*

2.2 A key piece of work therefore for the WMCA this year will be to “build a culture of greater scrutiny and accountability”. To help facilitate this, the English Devolution Accountability Framework committed the Government to develop what it was calling a ‘scrutiny protocol’ for all institutions with devolved powers which will set out the relationship between the mayor, the institution and its scrutiny and audit functions. The Scrutiny Protocol was itself published on 22 November 2023 as part of the Government’s Autumn Statement and is attached as an appendix to this report.

2.3 The protocol provides guidance for chairs and members of overview & scrutiny committees, as well as scrutiny officers, to help them carry out their roles more effectively, primarily through identifying 18 “key principles of good governance” that it considers contribute towards a sustained culture of scrutiny that holds local decision makers to account. The protocol itself is categorised as “non-statutory guidance” and so talks of *shoulds* rather than *musts* but is still an important tool against which the Government will measure the strength and effectiveness of governance and accountability within the WMCA.

3. Key Principles of Scrutiny

3.1 The protocol provides a commentary for each of its 18 key principles of good scrutiny, and the WMCA should therefore be seeking to ensure its scrutiny functions meets, or is working towards meeting, each principle. It is a reflection of the existing strength of scrutiny within the WMCA a great deal of the protocols set out activity that is already undertaken by either this committee or the Transport Delivery Overview & Scrutiny Committee. However, there are a number of areas where scrutiny members might consider activity needs strengthening in order to meet the aspirations of the protocol.

3.2 Key Principle 5 - sustained appointments made on interest and skills

Appointments to scrutiny committees should be multi-year to provide continuity of work and for all members to have a shared level of interest. The protocol provides a model role profile for scrutiny members

- 3.3 **Key Principle 6 - well-resourced training**
All members should be offered additional knowledge briefings outside of the formal meeting structure. This is undertaken for transport scrutiny members and should be something introduced for this committee too.
- 3.4 **Key Principle 7 - inviting technical expertise**
Committees should invite technical expertise (eg. from local universities) to meetings to enhance scrutiny of decisions. Both scrutiny committees have not utilised external experts to any great extent to date.
- 3.5 **Key Principle 10 - participation in pre-policy and pre-decision scrutiny**
The practice of bringing decisions for scrutiny shortly before they are taken should be avoided. Instead, members should be engaged early in the development of a policy so they can help shape its design and add real value. Pre-decision scrutiny within the WMCA normally takes place immediately before items are being considered by the WMCA Board. Further thought needs to be given to that as both committees' work programmes are developed.
- 3.6 **Key Principle 12 - regular performance monitoring**
A focus on key strategies will enable scrutiny committees to understand priorities and begin to monitor performance against delivery.
- 3.7 **Key Principle 15 - strong relationships with stakeholders**
For combined authorities, the work of their committees should complement that of their constituent local authorities rather than create duplication. Whilst work has started in this regard following engagement with the scrutiny co-ordinating committees of a number of constituent authorities, more could be done in this area.
- 3.8 **Key Principle 18 - strong relationship with audit committees**
Audit committees should publish an annual report to broadcast the work of their committee and how its work influences and benefits the outcomes of the combined authority and its strategic goals and priorities. Whilst scrutiny publishes an annual report setting out its activity over the previous 12 months, engagement should take place with Audit, Risk & Assurance Committee to involve them in this process.
- 3.9 Overall, a great deal of the way scrutiny is operated within the WMCA is reflected within the 18 key principles, and the protocol should therefore be viewed as providing a number of helpful hints as to how it can be further strengthened, rather than having to rip anything up and starting again. It is also pleasing to see the Department for Housing, Levelling Up & Communities chose to include as a case study within the protocol the work this committee undertook to scrutinise the draft Deeper Devolution Deal before it was signed off by the WMCA Board and constituent councils.

Case Study – West Midlands Combined Authority (WMCA)

Ahead of the WMCA submitting its deeper devolution deal offer to DLUHC, its overview and scrutiny committee held a series of workshops that undertook a deep dive into each of the offer's key proposals, testing the scope and ambition of each 'ask', and challenging whether the ambition of these proposals were sufficient to address the region's needs. This work resulted in the strengthening of the deal document ahead of its formal adoption by the CA and its constituent authorities.

4. Next Steps

- 4.1 Officers are now starting to develop thoughts and ideas in respect of the seven key principles identified above as been worthy of further development. This will include engagement with the scrutiny committee chairs and members through a workshop to allow for a more considered approach to be undertaken. The protocol envisages the principles being adopted incrementally over the next 12 months

5. Strategic Aims and Objectives

- 5.1 Implementing the Scrutiny Protocol relates to the following aims:

Aim 5 - Securing new powers and resources from central government.

Aim 6 - Developing our organisation and our role as a good regional partner.

6. Financial Implications

- 6.1 There are no direct finance implications or additional financial asks associated with the content of this report. All current planned activities to support adoption of the principles can be met from existing resources.

7. Legal Implications

- 7.1 The scrutiny protocol is non-statutory guidance, using the language of “should” rather than “must”. However, it is essential that the WMCA maintains a strong scrutiny culture, and strengthens this further as a requirement of devolution, and strongly recommended that the protocol recommendations should be adopted.

8. Single Assurance Framework Implications

- 8.1 There are no direct implications for the Single Assurance Framework arising out of this report.

9. Equalities Implications

- 9.1 There are no direct equalities implications arising out of this report.

10. Inclusive Growth Implications

- 10.1 There are no direct inclusive growth implications arising out of this report.

11. Geographical Area of Report’s Implications

- 11.1 The Overview & Scrutiny Committee comprises members from across the constituent and non-constituent authorities participating within the WMCA.

12. Other Implications

- 12.1 There are no other direct implications arising out of this report.

13. Schedule of Background Papers

- Deeper Devolution Deal - Scrutiny Implications report, Overview & Scrutiny Committee - 10 July 2023