

REPORT TO: Audit and Governance Committee

MEETING DATE: 20 June 2017

BY: Depute Chief Executive (Partnerships and Community Services)

SUBJECT: How Councils Work: Roles and Working Relationships in Councils – Are you still getting it right? (Accounts Commission, November 2016)

1 PURPOSE

- 1.1 To review East Lothian Council's position in relation to the Accounts Commission report, *'How Councils Work: Roles and working Relationships in Councils – Are you still getting it right?'*

2 RECOMMENDATIONS

- 2.1 The Committee should:
- note the position of East Lothian Council in regard to the issues raised in Accounts Commission report, *'How Councils Work: Roles and Working Relationships in Councils – Are you still getting it right?'*
 - use the Summary Checklist that accompanies the report to identify any areas where further information or guidance is required for elected members
 - note that a training needs survey of elected members will be carried out in the autumn to help inform the development of an on-going training and development programme for councillors.

3 BACKGROUND

- 3.1 The Accounts Commission has published a series of reports under the theme: How Councils Work, which address key areas of good governance in councils. It published the *'Roles and Working Relationships: Are you getting it right'* report in 2010 and in November

2016 it published the follow up report, 'Roles and Working Relationships in Councils – Are you still getting it right?' in November 2016.

3.2 In this latest report the Accounts Commission revisits the themes in its 2010 report. It highlights issues that are important to the governance of councils in the current climate. The Commission hopes that the report will support councillors in their difficult and challenging role. Also the report should also help councils to consider their governance arrangements.

3.3 The three messages highlighted in the report centre on the main themes of the original 2010 report:

- clear roles and responsibilities and arrangements for governance that are up to date
- effective working relationships, with councillors and officers demonstrating appropriate behaviours
- councillors having the skills and tools to carry out their complex and evolving roles.

3.4 The Accounts Commission stresses that Councils need to put in place systems for governance that fit their particular ways of working. The broad principles of good governance that all councils must observe were set out in the CIPFA/ SOLACE Delivering Good Governance in Local Government Framework (2007). The six core principles of the framework provide a useful context for the report:

- Focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the area
- Members and officers working together to achieve a common purpose with clearly defined functions and roles
- Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour
- Taking informed and transparent decisions which are subject to effective scrutiny and managing risk
- Developing the capacity and capability of members and officers to be effective
- Engaging with local people and other stakeholders to ensure robust public accountability.

3.5 The Council adopted the Good Governance principles in 2010 and carries out an annual self-evaluation against the framework which is reported along with the Annual Governance Statement to Audit and Governance Committee.

- 3.6 *How Councils Work: Roles and working Relationships in Councils – Are you still getting it right?* is structured around seven significant issues, which are summarised below along with a short explanation of how East Lothian Council is addressing each of them.

The changing local government operating environment

- 3.7 The report highlights the major challenges faced by local government, including continuing resource constraint against a backdrop of increasing demand and rising public expectations, the integration of Health and Social Care, the increasing complexity of service delivery, the re-emphasis on Community Planning and the Community Empowerment Act, the potential impact of the Scottish Government's Programme for Government and the implications of the decision to leave the European Union.
- 3.8 The Accounts Commission has emphasised, in this and other reports, that the scale and pace of change required and expected of councils means that difficult decisions about fundamental changes in services and how they are delivered will need to be taken. This makes it even more important that councils review their governance arrangements to ensure they remain 'fit for purpose' in the ever changing and more complex operating environment.
- 3.9 The draft Council Plan 2017-2022 adopted by the Council in February 2017 addresses the challenges highlight by the Accounts Commission. The draft Plan is explicit in identifying the need for the Council to undergo fundamental changes through the Transformational Change programme and through increasingly becoming:
- An enabling and empowering authority that works with its citizens and communities, the business and third sectors and other public sector partners to deliver the solutions that work best for East Lothian
 - A more entrepreneurial authority, developing new ways of ensuring services are provided in the most effective and efficient way possible
 - A 'digital' authority, fully embracing and exploiting opportunities to use technology to deliver services.
- 3.10 East Lothian Council carries out an annual self-evaluation against its Corporate Governance framework to ensure that it has governance arrangements in place to support effective decision-making and strong and effective leadership. The self-evaluation, which is reported to the Audit and Governance Committee and forms the basis for the Annual Governance Statement, included in the Council's Annual Accounts, identifies areas for improvement.

Councillors and officers must be clear on their roles

- 3.11 The key point made by the Accounts Commission is that clear governance, particularly officer and member roles and responsibilities, is essential to delivering effective public services. Councillors should actively support and contribute to the effective governance of the council through taking fair and objective decisions and providing constructive scrutiny. Councillors are required to observe the Councillors Code of Conduct but councils can also develop more specific local guidance on roles and responsibilities.
- 3.12 The elected member induction programme has included sessions which deal with the roles and responsibilities of elected members and the Councillors Code of Conduct. The Council has adopted role descriptions for elected members making a clear distinction between 'backbench' elected members, senior members, Council Leader and Provost. The Council Standing Orders and Scheme of Administration and Delegation include the role descriptions for Chief Officers and Statutory Officers as well as the Councillors Code of Conduct, which clearly outline the different role of councillors and officers.

Scrutiny is an essential part of effective decision-making

- 3.13 Councils must have good systems for decision-making, audit and scrutiny, if they are to operate effectively. Scrutiny and audit are both important, but their distinction is not always clear. The Accounts Commission believes that effective and transparent scrutiny is best achieved where the chair of the scrutiny committee is not a member of the political administration; scrutiny committees must have clear terms of reference; they must have access to independent advice; and their members must have the necessary skills and training to do their job.
- 3.14 The Council has three scrutiny committees – Audit and Governance, Policy and Performance Review and Police, Fire and Rescue and Community Safety Scrutiny Committees. The Committees have clear and distinct terms of reference. The Audit and Governance and Policy and Performance Review Committees are chaired by non-administration members. The scrutiny committees are supported by council officers who provide impartial advice to the members. The Guide to Scrutiny provides members of the committees with guidance about how to conduct their business and provide effective scrutiny.

The governance of partnerships and arm's length bodies needs to be considered from the outset

- 3.15 Councils and their partners must give careful consideration to the governance arrangements for partnerships, joint boards and arms-length organisations. The integration of health and social care is an example of the complexities involved in achieving effective partnership working. The report also makes specific reference to arms-length organisations (ALEOs) which have grown in scale and importance in recent years. The Councillors Code of Conduct usefully sets out the principles that

councillors must follow when taking a role on outside bodies. The report also highlights the potential conflict of interest issues that might arise for councillors who are appointed to the boards of ALEOs and other outside bodies.

- 3.16 East Lothian Council only has one recognised ALEO – Enjoy Leisure – which was established following detailed consideration of governance and other arrangements. The governance arrangements for East Lothian’s community Planning Partnership have been reviewed and revised on several occasions and will be reviewed once again during summer 2017 to ensure they remain ‘fit for purpose’ as the Single Outcome Agreement is replaced by a new East Lothian Plan (Local Outcome Improvement Plan). The elected members’ induction programme included sessions on the role of members on outside bodies and briefings on some of the Council’s key partnership bodies, including the Health and Social Care Partnership.

Statutory officers need to have sufficient influence

- 3.17 The Accounts Commission believes that statutory officers, who have an important role to play in promoting and enforcing good governance and for making sure councils comply with legislation, must have sufficient influence and experience to undertake these roles. Councillors must be aware of the purpose of the statutory officers which should be set out in schemes of delegation.
- 3.18 East Lothian Council’s Scheme of Delegation includes the role descriptions for the statutory officers – Head of Paid Service, Chief Financial Officer, Monitoring Officer, Chief Social Work Officer and Chief Education Officer. Four of the five statutory officers are members of the Council Management Team and the other – Chief Social Work Officer – attends regularly and also meets with the Chief Executive on a monthly basis. All elected members have been made aware of the role of the Council’s statutory officers and have direct access to them to seek advice or pursue any matter of concern (e.g. possible breach of Standing Orders or the Councillors Code of Conduct). The statutory officers attend the Council, Cabinet and other Committees as required to provide advice to members.

Good conduct and behaviours are crucial

- 3.19 The Accounts Commission has stressed the importance of councillors and officers working well together with relationships built on trust, openness and mutual respect. Again the report stresses the importance of councillors observing the ethical standards and behaviours set out in the councillors’ code of conduct. The 2010 How Council’s Work report noted the benefits of using cross-party meetings to help foster good communication and working relationships between political groups. It also suggested that member-officer working groups can be useful although they should not be used for decision-making. The report stresses that ultimately, actual behaviours are more important than rules.

- 3.20 The Council supports a culture of trust, respect and openness between councillors and chief officers, with the officers providing confidential advice as required to both the administration and opposition groups (e.g. in the preparation of administration and opposition budgets prior to the Council budget setting meeting). The Council has on occasion established cross party meetings to consider matters such as the Council's response to the Local Government Boundary Commission.

Councillors need the skills and tools to carry out their roles

- 3.21 As has been highlighted above the role of elected members is evolving and has become increasingly complex, which underlines the importance of councillors having the skills, knowledge and confidence to undertake their various roles. Councils have carried out training needs analysis and put in place personal development plans for councillors. Although there is no requirement in the Councillors Code of Conduct for councillors to participate in training, some training, in particular around councillors' quasi-judicial roles and in regulatory functions such as planning is compulsory. The Accounts Commission urges councils to ensure that councillors receive training in the essential areas of scrutiny, audit and financial decision-making. Finally, the report suggests that training and development for councillors should be an on-going process, not just a one-off induction.
- 3.22 The elected members' induction programme has included mandatory sessions, including on the councillors code of conduct, legal duties and responsibilities and the planning system. Other sessions were mandatory for new members. The Council has undertaken training needs analyses which helped to inform the development of an on-going programme of briefing sessions on key issues. Shortly after the 2012 council elections members were encouraged to create personal development plans that were then supported through the Improvement Service. It is proposed that a training needs survey of all elected members will be carried out in the autumn to help inform the development of an on-going training and development programme for councillors.
- 3.23 The Accounts Commission report is accompanied by a summary checklist (Appendix 2) of key questions which councillors and officers should ask themselves to ensure they are satisfied that the issues in the report are being addressed effectively.

4 POLICY IMPLICATIONS

- 4.1 Councils are required under the Local Government in Scotland Act 2003 to achieve Best Value in regard to economy, efficiency, effectiveness, equal opportunities and sustainable development. The 'Overview of Local Government in Scotland 2016' will assist the Council in recognising the challenges that it faces in achieving Best Value in the future.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – none.
6.2 Personnel – none.
6.3 Other – none.

7 BACKGROUND PAPERS

- 7.1 ‘How Councils Work: Roles and Relationships in Councils – Are you still getting it right?’, Accounts Commission, November 2016
7.2 Summary Checklist, Accounts Commission, November 2016

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| AUTHOR'S NAME | Paolo Vestri |
| DESIGNATION | Service Manager, Corporate Policy & Improvement |
| CONTACT INFO | pvestri@eastlothian.gov.uk |
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How councils work

Follow-up messages for councils

Roles and working relationships in councils -
Are you still getting it right?



ACCOUNTS COMMISSION 

Prepared by Audit Scotland
November 2016




The Accounts Commission

The Accounts Commission is the public spending watchdog for local government. We hold councils in Scotland to account and help them improve. We operate impartially and independently of councils and of the Scottish Government, and we meet and report in public.

We expect councils to achieve the highest standards of governance and financial stewardship, and value for money in how they use their resources and provide their services.

Our work includes:

- securing and acting upon the external audit of Scotland's councils and various joint boards and committees
- assessing the performance of councils in relation to Best Value and community planning
- carrying out national performance audits to help councils improve their services
- requiring councils to publish information to help the public assess their performance.

You can find out more about the work of the Accounts Commission on our website: www.audit-scotland.gov.uk/about/ac 

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How councils work

Are you still getting it right?

- 1.** The Accounts Commission's 2010 [*How councils work. Roles and working relationships: are you getting it right?*](#)  (HCW) report set out the importance of good governance in councils. This requires good working relationships, and members and officers being clear about their respective roles and responsibilities. As the Commission said at the time, getting these things right has a significant bearing on how well councils perform in delivering vital public services for local people and communities, and ensuring that public money is used wisely.
- 2.** The report highlighted the complex and demanding role that councillors have in representing their constituents, providing strategic direction for the council, and scrutinising policy decisions and service performance. The Commission also drew attention to the increasing role of councillors on external bodies and partnerships such as health integration joint boards, arm's-length organisations, voluntary sector organisations and police and fire committees. The report stressed the importance of training and development to support councillors with the skills and tools to carry out their role.
- 3.** Many, if not all of the recommendations in that report still stand. That is unsurprising as they were founded on core principles of good governance: clarity about roles and responsibilities; a culture of trust; and the application of good conduct and behaviour. However, since its publication in 2010, the context in which local government operates has changed markedly. The Accounts Commission has therefore decided to re-visit some of the report's key messages in the light of these changes.
- 4.** The Commission hopes that this report will be a useful tool to support councillors and officers in their complex and evolving role. It aims to help them review their practice and to take any necessary actions to ensure that their council's governance arrangements remain fit for purpose.

Purpose of this report

- 5.** Alongside its role as the local government public spending watchdog, the Accounts Commission also aims to help councils improve. The How councils work series of reports and this follow-up report focus on supporting councils in their drive for improvement.
- 6.** In this report the Accounts Commission revisits the themes in its 2010 HCW report on roles and working relationships. It highlights issues that are important to the governance of councils in the current climate. The Commission hopes that this report will support councillors in their difficult and challenging role. It should also help councils to consider their current governance arrangements and make any necessary changes, including their preparations for the new intake of councillors following the May 2017 local government elections.

7. The messages highlighted in this report centre on the main themes of the original HCW of:



- clear roles and responsibilities and arrangements for governance that are up to date
- effective working relationships, with councillors and officers demonstrating appropriate behaviours
- councillors having the skills and tools to carry out their complex and evolving role.

8. Councils need to put in place systems for governance that fit their particular ways of working. There are however broad principles of good governance that all councils must observe. The 2007 CIPFA/ SOLACE Delivering Good Governance in Local Government Framework sets out six core principles which provide a useful context for this report:

- Focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the area.
- Members and officers working together to achieve a common purpose with clearly defined functions and roles.
- Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour.
- Taking informed and transparent decisions which are subject to effective scrutiny and managing risk.
- Developing the capacity and capability of members and officers to be effective.
- Engaging with local people and other stakeholders to ensure robust public accountability.

9. The checklists throughout the report are designed to help councils assess their governance arrangements taking these principles into account.

10. The [References](#) section provides links to other useful guidance material prepared by bodies including the Association of Public Service Excellence, the Centre for Public Scrutiny, the Chartered Institute of Public Finance and Accountancy, the Improvement Service, the Society of Local Authority Chief Executives and Senior Managers, and the Standards Commission.


11. As part of its research for this report, the Accounts Commission hosted two Round Table discussions to explore how the current local government context impacts on governance in councils. These were attended by senior officers and members from Scottish local authorities and leading local government policy experts and academics. Summaries of those discussions can be accessed here [Round Table 1](#) , [Round Table 2](#) . In addition to the round table discussions, the Commission has drawn on its own audit work in councils, and also wider research from those bodies identified in [references](#).

12. The following sections set out significant issues that the Accounts Commission believes are important to effective governance in the changing local government climate.


The changing local government operating environment

13. Councillors and council officers are working in an increasingly complex and challenging environment. Councils face continued financial constraints along with demand pressures in areas such as older peoples' care. Councils are having to rethink many of the ways in which they have done things in the past. This has implications for councillors and officers, and how they work together to lead change and improve services. Some of the major changes in the local government environment are summarised below:

- Continuing resource constraints, against a backdrop of increasing demand and rising public expectations about the quality of public services.
- The integration of health and social care, which is fundamentally changing the governance arrangements for this significant area of public service delivery.
- The increasing complexity of service delivery (ALEOs, Trusts, special-purpose vehicles, charities, etc.), often in partnership with others (other public bodies, the third and private sector, or communities themselves).
- The re-emphasis on Community Planning and the Community Empowerment Act, which has the potential to fundamentally change the relationship between councils and local communities.
- The City Region Deal programme, which is giving councils a more prominent role in leading the development of the local economy.
- The Community Justice (Scotland) Act 2016, which gives community planning partnerships responsibility for the strategic planning and delivery of community justice.
- The potential impact on councils of the Scottish Government's Programme for Government.
- The implications on local government of the United Kingdom's decision to leave the European Union.

14. The councillor role, while rewarding, can be challenging and stressful. Councillors play an increasingly important role in enabling communities to meet their aspirations. But at a time of financial constraint, they must also take difficult service decisions that may impact on the communities they serve. A report by the Association of Public Service Excellence (APSE) [*The future role of elected members in Scotland*](#)  illustrates these points well.

15. Councils need to take major decisions over how they provide services to meet current cost and demand pressures. The Accounts Commission has found that councils are implementing incremental changes to services, for example through introducing service charges or reducing employee numbers. But these approaches are not sufficient or sustainable given the scale of the challenges ahead.

16. In its 2016 report, *An overview of local government in Scotland* , the Commission emphasised that councils need to consider fundamental changes to cope with these pressures. A more strategic approach is needed with longer-term planning and a greater openness to alternative forms of service delivery. This requires both strong leadership and effective engagement with communities.

17. Good governance lies at the heart of how councils manage change and deliver improvement. But, governance has become more complex since the Accounts Commission's 2010 How councils work report because of a range of factors, including:

- the shift from single party council administrations to coalitions, where no single party has overall control
- the shift from traditional service-based committees to the executive or cabinet model, bringing a clearer separation between decision-making and scrutiny
- the increasing prominence of partnership working, including health and social care integration, and service delivery through alternative models such as arm's-length organisations
- the introduction of leaner management structures within councils, with executive directors holding wider service remits.

18. Many councils are taking measures to scale-down their management structures and reduce their workforces. Streamlining management and becoming more efficient is an important aspect of delivering Best Value, but the Commission has emphasised that councils need to retain sufficient leadership capacity to deliver effective services for the future. This means having the people in place with sufficient knowledge, skills and available time.

Checklist 1

Keeping governance up to date



As a councillor:

How effective is governance in your council?

Have your views been sought over the effectiveness decision-making and scrutiny, coalition working arrangements, or multi-member ward working for example?

Do you think councillors provide strong and effective leadership?

Do you feel that the council's senior management team has the capacity and capability to deliver the council's priorities?

Cont.

As a chief officer:

Have you consulted with councillors over the effectiveness of the council's governance arrangements?

Do you regularly review governance, eg schemes of delegation, standing orders and working protocols?

How well has the council adapted its governance to take into account significant changes such as health IJBs and its use of arm's-length companies?

Does your annual governance statement address significant issues and identify areas for improvement?

Councillors and officers must be clear on their roles

19. Governance can be described as the systems for directing and controlling an organisation's activities. Put simply, it's about being clear about what the council is trying to achieve and who is responsible for doing what. The 2010 HCW report emphasised that clear governance, particularly officer and member roles and responsibilities, is essential to delivering effective public services. That fundamental principle is as valid now as it ever was.

20. It is important that councillors actively support and contribute to the effective governance of the council itself. For example taking fair and objective decisions and providing constructive scrutiny. The Accounts Commission's Best Value work has shown how difficult it is for councils to make progress where councillors do not support, or may even obstruct their council's governance processes.

21. Councillors are required to observe the Councillors Code of Conduct. This sets out core requirements around the role of councillors and their conduct, for example around declaring interests and taking decisions. The McIntosh report into local government and the Scottish Parliament, June 1999 highlighted the distinct roles and responsibilities for councillors and officers.

- The full council (comprising all councillors) is the governing body of the council that determines policy. It is ultimately responsible for ensuring the quality of service delivery.
- Councillors are elected to determine policy, not to engage in the direct operational management of services – this is the responsibility of council officers.
- Officers advise and serve the whole council. The council has a right to expect advice which is candid, expert and impartial.

22. It found that these distinctions are often easier to state than to carry out consistently into practice. For example the distinction between policy development and management is notoriously difficult to draw up at the margin. In addition, the changed framework within which councillors and officers operate in cabinet or executive systems of governance call on a new level of skills on the part of officers who are required to work directly to both the executive leadership group and to the council as a whole.

23. Coalition administrations are now the norm for local government in Scotland, but these can bring less certainty over decision-making. It can take more effort from both councillors and officers to work effectively in a coalition. It also requires a more sophisticated or nuanced approach to balance different interests across political groups.

24. Some council administrations use coalition agreements to set out the joint expectations of the administration parties. These can be used to set out their shared vision and commitments, arrangements for budget setting, decision-making and scrutiny, and arrangements for resolving any differences. Coalition agreements can also be a useful focus for officers to help clarify the goals they need to work to. If managed well coalition working can lead to better decisions through testing policy proposals more widely.

25. Councils should also consider developing more specific local guidance or protocols to help clarify roles and responsibilities in their council. Examples include protocols for multi-member ward working; member-officer engagement; and employee conduct. [References](#) outline further guidance available to councillors.

Checklist 2



Clear roles and expectations

As a councillor:

How well do you understand and observe the roles expected of you?

Do you need further guidance on how to fulfil your role, for example protocols for member-officer working?

Do you actively contribute to effective governance in the council, as well as fulfilling your representative role as councillor?

Are officers accessible – and to what extent do they provide the right balance between supporting the administration and supporting the council as a whole?

Where your council is led by a coalition, are the working arrangements clear?

Where your council uses the executive or cabinet system, are the roles of the executive and non-executive groups clear?


As a chief officer:

Do you feel you provide the right balance between supporting the administration and supporting the council as a whole?

Have you reviewed the council's governance documents including schemes of delegation, guidelines and protocols to ensure they are clear and easily understood?

Do you think all councillors are clear on their roles and have the necessary skills, and have you taken steps to support them?

Scrutiny is an essential part of effective decision-making

- 26.** Good governance involves councils being accountable and accessible to the communities they serve. Councils must be transparent about the decisions they make and the quality of the services they provide. The council's leadership must be scrutinised and held to account for its plans and performance. This requires a culture that recognises the importance of scrutiny and is open to candid discussions about risks.
- 27.** Putting effective scrutiny in place can be particularly difficult in complex partnerships or where there is an uncertain and changing environment. Whatever system of governance is used, it is crucial to know who is asking questions over risk and resilience. A prerequisite for effective scrutiny is that councillors must regularly attend committee or board meetings and actively take part in scrutiny when they do so.
- 28.** Councils must have good systems for decision-making, audit and scrutiny if they are to operate effectively. Scrutiny and audit are both important, but their distinction is not always clear. Blurring these roles can weaken governance.
- 29.** In broad terms, scrutiny questions whether councils are doing the right thing and questions policy proposals and the performance and quality of services. Audit examines the regularity of governance and financial management including how the council has applied its resources to achieve its objectives. Councillors' involvement in discussion and debate at the start of the decision-making process is an important element of good policy making and effective scrutiny.
- 30.** The Accounts Commission believes that effective and transparent scrutiny is best achieved where the chair of the scrutiny or audit committee is not a member of the political administration. Scrutiny and audit committees must have clear terms of reference that set out their independent role in scrutinising the councils decisions and its performance and practice. They should have adequate support and be given access to independent advice. Members of these committees must have the necessary skills and training to do their job.
- 31.** Councils should give careful consideration to the design of their scrutiny arrangements, and review their effectiveness on an ongoing basis. The cabinet or executive model of governance makes a clearer distinction between decision-making and scrutiny. Where councils use this approach they should be clear on the powers that rest with executive members and the means by which non-executive members can hold the executive to account.
- 32.** In its [overview of local government in Scotland](#)  report, the Accounts Commission' emphasised the importance of robust scrutiny over councils' strategic service delivery choices, noting that "it is increasingly important that councillors are able to challenge and scrutinise decisions and performance, and fully assess options for new and different ways of delivering services within their reducing budgets".
- 33.** The Commission's Best Value work in councils has highlighted that scrutiny works best where councillors receive good quality information on which to base their decisions. But, councillors also need to be proactive and assure themselves that they have sufficient evidence before decisions are made. The information they receive should be balanced, comprehensive and understandable. If things go

wrong it is not enough for councillors to say 'I wasn't told', or 'we weren't given the information'. Where scrutiny fails the public interest is not met; the most graphic example being the failure in scrutiny by councillors in Rotherham MBC in relation to the sexual exploitation of children.

34. The 2015 Community Empowerment Act gives communities a much stronger say in how public services are to be planned and provided. The legislation provides a real opportunity for councils to develop imaginative ways of involving communities in local decisions and in scrutinising local services. Councils must use the opportunity that this new legislation presents to strengthen community engagement and participation to drive improved outcomes in local services.

Checklist 3



Effective scrutiny

As a councillor:

How open is your council to scrutiny – is scrutiny encouraged as a means to improve services and make better decisions?

Have you received training and support in your scrutiny role?

Do you actively engage in scrutiny and ask constructive and challenging questions?

Do you feel able to ask candid questions, for example about risks?

To what extent does scrutiny take into account service user and community views?

Are the chairs of the audit and scrutiny committees sufficiently independent?

Do you get sufficient information to make balanced decisions, for example on the best options for delivering services?

Does your council's scheme of special responsibility allowances reflect the importance of the scrutiny and audit functions?

As a chief officer:

Do you periodically review the effectiveness of scrutiny – including its impact on decision-making?

Are effective scrutiny and audit arrangements in place for services delivered through local partnerships or arm's-length bodies?

Do you provide councillors with comprehensive information on services, costs and risks?

Have you taken measures to engage service users and communities in scrutiny?

The governance of partnerships and arm's-length bodies needs to be considered at the outset

35. Councils and their partners must give careful consideration to the governance arrangements for partnerships, joint boards, and arm's-length organisations. Issues such as councillor representation, scrutiny and public accountability need to be considered at the outset.

36. Where the council jointly leads a service with other partners it is important that they share a common culture and purpose. The Accounts Commission's Best Value audit work found that community planning partnerships for example are most effective where they have a shared culture of trust. But, the integration of health and social care is an example of the complexities involved in achieving this. Our December 2015 report on [Health and social care integration](#) highlighted the need for members of IJBs to understand and respect differences in organisational culture between councils and the NHS and to build a common understanding of the roles and responsibilities of board members.

37. There has been steady growth in councils' use of arm's-length organisations. First seen as sports trusts in the 1980s, ALEOs are now also widely used for property, transport, and economic development. More recently, ALEOs have been used for core services such as older people's care. This can mean councillors taking positions on the boards of companies and charitable trusts and brings particular demands to their already diverse role.

38. The councillors Code of Conduct sets out principles that councillors must follow when taking a role on outside bodies. The Standards Commission's Advice Note for Councillors on ALEOs provides supplementary guidance to help clarify this complex area of the Code. The Accounts Commission and COSLA's [Following the Public Pound Code](#) (FPP) and the Accounts Commission's [How councils work](#) reports on ALEOs also set out guiding principles for councils in this complex area.

39. These reports emphasise that councils should consider carefully the representation on arm's-length organisations. The key question is what skills are required of the board and who is best placed to meet these. Where councillors or officers take such roles they should be clear of their responsibilities and have the right mix of skills and experience.

40. There are risks of conflicts of interest where councillors or council officers take board positions. The Companies Act and Charities Act requires board members or trustees to act in the best interests of the company or trust on which they serve, and to put these interests first. But there may be times where this requirement may conflict with a councillors' duties to the council. This can be a difficult balance where councillors and council representatives may be privy to certain information, but are prohibited from sharing or acting on it because of their role. Examples could be council policy decisions that impact on local services and the funding provided to ALEOs.

41. There is an ongoing debate around the advantages and disadvantages of having councillors as board members. On the plus-side, councillors bring their status as democratically elected community representatives and their knowledge of the council and its services; on the minus-side, there are potential conflicts of interest between their council and ALEO roles. It is interesting to note that in England it tends to be the exception rather than the rule for councillors to be members of ALEO boards.

42. Councils should consider wider options to limit the risks of conflicts. For example, some councils have chosen not to use council representatives as board members for this reason. Alternatively, council representatives can take advisory or non-decision making roles in the ALEO. In all cases, and in line with FPP, councils should ensure that the performance of ALEOs is regularly reported and monitored by the council and reported to committee.

Checklist 4



Partnerships and arm's-length bodies

As a councillor:

Do you think the governance arrangements for local partnerships, the health IJB, and the council's arms-length bodies are clear and fit for purpose?

Do you have the necessary skills and abilities to undertake your role?

Do you receive support and training on your roles and responsibilities in relation to any partnership or arms-length body that you sit on?

Does your training specifically cover your legal responsibilities as a member or trustee in relation to the company or charitable trust that you are a member of?

Do you make a strong contribution through your attendance and engagement at board meetings?

Are the different aspects of the role clear eg providing strategic direction, scrutiny, audit, and representing the council or community?

Is the performance of the local body or partnership sufficiently monitored and reported to council?

Does the IJB have a common culture and purpose – is there a clear vision for improving care?

As a chief officer:

Does your council provide sufficient training and support to councillors in their roles on local partnerships and boards?

Does the council understand and observe the Following the Public Pound guidance? (eg setting clear criteria for funding, audit access, and monitoring)

Does the council have a clear rationale for council representatives having a role on outside bodies and partnerships?

Are you satisfied with the governance of the IJB including how its decisions are reported to the council?

Statutory officers need to have sufficient influence

43. Statutory officers have specific duties and discharge their role as part of their wider responsibilities within their council. They have an important, independent role in promoting and enforcing good governance and for making sure councils comply with legislation. [Exhibit 1](#) summarises the core roles of statutory officers.

44. The Accounts Commission believes that statutory officers must have sufficient influence and experience to undertake these important roles. It has found in its Best Value audit work that in some cases the role of monitoring officer can be undermined because of a lack of trust and respect between councillors and officers.


45. The 2010 HCW report found that councillors are not always clear on the purpose of the statutory officer roles. Council schemes of delegation should set out what these roles involve and why they are important, and the role of statutory officers should feature in induction schemes for all newly councillors. Councillors and committees should know when to seek advice from statutory officers to ensure that they operate legally and responsibly.

46. The chief executive is responsible for ensuring that statutory officers have sufficient access and influence to carry out their roles. This could mean for example their being a member of, or attending the senior management team. As such the chief executive may need to balance the benefits of having statutory officers as full members of the senior management team, with any intentions to operate slimmer executive management structures.

Exhibit 1

Statutory officer roles

| Statutory officer post | Core duties |
|--|--|
| Head of paid service (the chief executive) <ul style="list-style-type: none"> established under the Local Government and Housing Act 1989 | The head of paid service (the chief executive) is responsible to councillors for the staffing of the council and ensuring the work in different departments is coordinated. |
| Monitoring officer <ul style="list-style-type: none"> established under the Local Government and Housing Act 1989 | The monitoring officer ensures that the council observes its constitution and operates legally. This includes reporting on the legality of matters, mal-administration, and the conduct of councillors and officers. |
| Chief financial officer <ul style="list-style-type: none"> established under the Local Government (Scotland) Act 1973 | The chief financial officer (section 95 officer or the senior financial officer) is responsible for the financial affairs of the council. |
| Chief social work officer <ul style="list-style-type: none"> established under the Social Work (Scotland Act) 1968 | Councils are required to appoint a professionally qualified chief social work officer to provide members and senior officers with effective, professional advice about the delivery of social work services. |
| Chief education officer <ul style="list-style-type: none"> established under the Education (Scotland) Act 2016 | Councils are required to appoint a suitably qualified and experienced chief education officer to carry out the authority's education functions as defined by the Education (Scotland) Act and other enactments. |

47. Our report *Social work in Scotland*  highlights that the role of the chief social work officer (CSWO) has changed significantly as a consequence of health and social care integration. This has created risks that in some councils the CSWO may have too many responsibilities and insufficient status to enable them to fulfill their statutory responsibilities effectively. This is one example of the challenges councils face in putting effective governance in place at a time of ongoing change.

Checklist 5



The role of statutory officers

As a councillor:

Do you understand the roles of statutory officers, and do you have confidence in their abilities and contribution? (eg, monitoring officer, chief social work officer, chief finance officer)

Have you received sufficient training on the roles and responsibilities of statutory officers?

Do you / your committee understand how and when to consult with statutory officers?

As a statutory officer:

Do you have sufficient influence to ensure the council operates effectively?

Are you seen to be accessible in the support that you provide throughout the council?

Do you have a constructive relationship with the senior management team?

Are your views sought, and do you provide advice and direction to councillors and senior officials?

Are the responsibilities of the statutory officer roles adequately set out in the council's governance documents?

Good conduct and behaviours are crucial

48. Culture is set from the top and a positive culture is essential for any organisation to operate effectively. The Accounts Commission has stressed the importance of councillors and officers working well together. This means good working relationships built on trust, openness and mutual respect between all parties. Where these are absent it is difficult for any organisation to make progress.

49. Councils should reflect on whether their working relationships are constructive and productive. Councils operate in an often highly politicised environment and this can lead to tensions. The Standards Commission has noted increasing incidences of complaints against councillors. This can damage the reputation of councils and distract them from their purpose to provide people with vital services.

50. The Accounts Commission's Best Value work in councils has found instances where working relationships have broken down between political groups, or where there are tensions between members and officers. For example where

members lack confidence in officers and the information they provide to them. Social media and instantaneous communications are also becoming an increasing area of risk for councillor conduct.

51. Councillors and officers should send clear signals over how their people should behave and interact. Councillors should observe the ethical standards and behaviours set out in the councillors' code of conduct. Monitoring officers also have a role to help them with this. Exit interviews for councillors are seldom undertaken but they can provide useful reflection on how councils are run.

52. The 2010 HCW report noted the benefits of using cross-party meetings to help foster good communication and working relationships between political groups. Similarly, member-officer working groups can be useful to for members to work more closely with officers. These meetings should not be used for decision-making, observing the principle for council decisions and discussions to be taken in public.

53. Ultimately, actual behaviours are more important than rules – which can be worked around or ignored. It can be difficult for monitoring officers to challenge personal behaviours and this takes confidence and experience. Monitoring officers need to know how to act, and when. It is important that they address issues at an early stage, nipping potential problems in the bud to prevent poor behaviour becoming an accepted part of how the council runs itself.

Checklist 6



Conduct and working relationships

As a councillor:

To what extent do you think councillors work constructively together and show mutual trust and respect?

Is there a culture of trust and openness between councillors and chief officers?

Are you made aware of the behaviours and conduct expected of you?

Are cross party or group meetings and member-to-officer working groups used and do they work well?

As a chief officer:

Is sufficient guidance on roles and expected conduct available to both councillors and officers /employees?

Do you have positive and constructive working relationships with officers?

Are sufficient opportunities in place for cross party / group meetings, and for members to work with officers?

Are such meetings constructive, and do they respect the principle for public debate and decision-making?

Does the council undertake exit interviews for councillors and learn from them?

Councillors need the skills and tools to carry out their role

54. Local government in Scotland is a significant undertaking on any measure, involving annual expenditure of £20 billion and employing over 240,000 people. The increasing complexity of the local government environment, highlighted in this report, underlines the crucial importance of councillors having the skills, knowledge and confidence to provide demonstrable leadership, to undertake a much wider variety of roles, and to manage this complexity effectively.

55. It is essential that councils practice effective scrutiny, and decision-making to make sure that every pound they spend is spent wisely. There is an over-riding need for good governance and this can be especially challenging as service delivery arrangements become more complex.

56. Many councils carry out training needs analysis and put in place personal development plans for councillors. But evidence from Best Value audits indicates that councillors' take up of training is at best variable and sometimes they have poor perceptions of the training they receive.

57. Despite the importance of skills development there is no requirement in the Councillors Code of Conduct for councillors to participate in training. However, all councils provide compulsory training for the quasi-judicial roles in regulatory functions such as planning and licensing.

58. This is in contrast to the position in the health service where health boards have a duty to provide non executive directors with the necessary information and training to ensure that they are able to discharge their corporate responsibility to their highest standards. The approach recommends mandatory training and development for new non executive directors of a health board relevant to their governance committee membership or as identified through the performance development process.

59. It is also important to draw attention to the requirement in the Following the Public Pound (FPP) code for councils to properly advise members and officers of their responsibilities in relation to ALEOs, including declarations of interests. Councils should consider the role of their training and development programmes in meeting this requirement. This is not only in the public interest but in the best interests of councils themselves.

60. The Accounts Commission urges councils to go further and ensure that councillors receive training in the essential areas of scrutiny, audit, and financial decision-making.

61. Involving councillors in the design of training programmes can help to make them more relevant to their needs. Drawing on the views of newly elected and longer-serving members can help ensure that training and development, particularly induction training, is appropriate and effective. This can help to overcome the 'you don't know what you don't know' challenge where councillors may not be aware of skills and knowledge gaps until they have been in the job for some time. There is also a role for peer-to-peer training so councillors can learn and benefit from others' experience.

62. Training and development should be an ongoing process, not just a one-off induction. Newly elected councillors can be overloaded at the start of their term.

Councils should consider wider options such as training in the transition period before councillors take office; or a second wave of training once councillors have settled into their roles and are in a better position to apply new learning.

63. It is also important that officers provide ongoing support to councillors including good quality advice and information to help them in their various roles. This includes the opportunity to learn from good practice in other councils – another recurring theme of Best Value audits. The overall focus needs to be on continuing personal development.

Checklist 7

Councillors skills



As a councillor:

How well do you understand your role in relation to the council, local community, and on partnerships and outside bodies?

Is training and development sufficient for you to do your job?

Are you able to make an effective contribution to scrutiny, audit, and financial aspects of council business?

Do you take up training opportunities and make the most of advice and support from officers?

As a chief officer:

Do you ensure that training and development opportunities are available to councillors?

Does training include essential skills in areas such as scrutiny, audit and financial decision-making

Do you give sufficient support, information and guidance to councillors across their diverse roles, including partnerships and arm's-length companies?

Do you tailor training to the individual needs of councillors make it available on an on-going basis?

Do you seek feedback on the effectiveness of training and act on this?

Has the council reviewed the facilities and support provided to councillors to help them make the best use of their time and skills?

References

Accounts Commission/Audit Scotland

[*How councils work. Roles and working relationships*](#) , Audit Scotland, August 2010.

[*How councils work. Arm's-length external organisations \(ALEOs\)*](#) , Audit Scotland, June 2011.

[*The following the Public Pound Code \(Accounts Commission and COSLA\)*](#) , Audit Scotland, March 2004.

[*An overview of local government in Scotland 2016*](#) , Audit Scotland, March 2016.


Other references (as in October 2016)

[Councillors' Code of Conduct \(The Standards Commission\)](#) .

CIPFA/SOLACE [Delivering Good Governance in Local Government: Framework \(2016 Edition\)](#) .

[Advice for councillors on arm's length external organisations](#)  (The Standards Commission).

[Improvement Service learning materials](#) , eg Elected Member Briefing Notes & Guidance (CPP board guidance, continuous professional development, induction, briefings etc.)

Scottish Parliament Information Centre (SPICe) Financial Scrutiny Unit Briefing, [Subject profile – local government in Scotland](#) , (includes councillor roles and council powers / functions).

[The role of the chief financial officer](#) , CIPFA.

Association of Public Service Excellence (APSE) report: [The final piece of the jigsaw: elected members, everyday politics and local democracy in Scotland](#) .

Local Government Association information on being a councillor: <http://beacouncillor.co.uk/> .

Scottish Government: [On Board: A Guide for Board Members of Public Bodies in Scotland](#) .


How councils work

Follow-up messages for councils

Roles and working relationships in councils
- Are you still getting it right?



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Audit Scotland, 4th Floor, 102 West Port, Edinburgh EH3 9DN
T: 0131 625 1500 E: info@audit-scotland.gov.uk 
www.audit-scotland.gov.uk 

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Summary Checklist

Appendix 2

Questions for councillors and officers to consider



Keeping governance up to date

As a councillor:

How effective is governance in your council?

Have your views been sought over the effectiveness decision-making and scrutiny, coalition working arrangements, or multi-member ward working for example?

Do you think councillors provide strong and effective leadership?

Do you feel that the council's senior management team has the capacity and capability to deliver the council's priorities?

As a chief officer:

Have you consulted with councillors over the effectiveness of the council's governance arrangements?

Do you regularly review governance eg schemes of delegation, standing orders and working protocols?

How well has the council adapted its governance to take into account significant changes such as health IJBs and its use of arm's-length companies?

Does your annual governance statement address significant issues and identify areas for improvement?

Clear roles and expectations

As a councillor:

How well do you understand and observe the roles expected of you?

Do you need further guidance on how to fulfil your role, for example protocols for member-officer working?

Do you actively contribute to effective governance in the council, as well as fulfilling your representative role as councillor?

Are officers accessible - and to what extent do they provide the right balance between supporting the administration and supporting the council as a whole?

Where your council is led by a coalition, are the working arrangements clear?

Where your council uses the executive or cabinet system, are the roles of the executive and non-executive groups clear?

As a chief officer:

Do you feel you provide the right balance between supporting the administration and supporting the council as a whole?

Have you reviewed the council's governance documents including schemes of delegation, guidelines and protocols to ensure they are clear and easily understood?

Do you think all councillors are clear on their roles and have the necessary skills, and have you taken steps to support them?

Effective scrutiny**As a councillor:**

How open is your council to scrutiny – is scrutiny encouraged as a means to improve services and make better decisions?

Have you received training and support in your scrutiny role?

Do you actively engage in scrutiny and ask constructive and challenging questions?

Do you feel able to ask candid questions, for example about risks?

To what extent does scrutiny take into account service user and community views?

Are the chairs of the audit and scrutiny committees sufficiently independent?

Do you get sufficient information to make balanced decisions, for example on the best options for delivering services?

Does your council's scheme of special responsibility allowances reflect the importance of the scrutiny and audit functions?

As a chief officer:

Do you periodically review the effectiveness of scrutiny - including its impact on decision-making?

Are effective scrutiny and audit arrangements in place for services delivered through local partnerships or arm's-length bodies?

Do you provide councillors with comprehensive information on services, costs and risks?

Have you taken measures to engage service users and communities in scrutiny?

Partnerships and arm's-length bodies**As a councillor:**

Do you think the governance arrangements for local partnerships, the health IJB, and the council's arm's-length bodies are clear and fit for purpose?

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Has the council reviewed the facilities and support provided to councillors to help them make the best use of their time and skills?



Audit Scotland, 4th Floor, 102 West Port, Edinburgh EH3 9DN

T: 0131 625 1500 E: info@audit-scotland.gov.uk 

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