



SCRUTINY LEADERSHIP GROUP – 27TH OCTOBER 2016

SUBJECT: SCRUTINY REVIEW: EXPERT WITNESS PROTOCOL AND GUIDANCE

REPORT BY: ACTING DIRECTOR OF CORPORATE SERVICES AND SECTION 151 OFFICER

1. PURPOSE OF REPORT

1.1 For Scrutiny Leadership Group to consider the draft expert witness protocol and guidance.

2. SUMMARY

2.1 This report sets out a draft expert witness protocol and guidance as recommended and endorsed as part of the Scrutiny review agreed by Council in October 2015. Scrutiny Leadership Group is asked to comment on the draft.

3. LINKS TO STRATEGY

3.1 The operation of scrutiny is required by the Local Government Act 2000 and subsequent Assembly legislation.

3.2 The expert witness protocol and guidance contributes to the following Well-being Goals within the Well-being of Future Generations Act (Wales) 2016 by outlining how scrutiny committees will include expert witnesses at meetings. The guidance states that the group should consider if the report under consideration would benefit by extending an invitation to an expert witness and enhance the scrutiny against the following wellbeing goals:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

4. THE REPORT

4.1 The Scrutiny Review report agreed by full Council on the 5th October 2015 included a recommendation to develop a protocol for expert witnesses. A draft protocol is attached at appendix 1.

4.2 Members are asked to consider and comment on the protocol prior to publication on the Members portal and wider circulation to all Scrutiny Committee Members and officers.

5. WELL-BEING OF FUTURE GENERATIONS

- 5.1 This report contributes to the Well-being Goals as set out in Links to Strategy above. It is consistent with the five ways of working as defined within the sustainable development principle in the Act in that all Scrutiny Committees will take into account the Wellbeing Goals when considering potential witnesses.

6. EQUALITIES IMPLICATIONS

- 6.1 This expert witness protocol and guidance includes reference to the potential equalities implications upon on groups or individuals who fall under the categories identified in Section 6 of the Council's Strategic Equality Plan and advises that scrutiny committee should consider potential witnesses where applicable.

7. FINANCIAL IMPLICATIONS

- 7.1 There are no financial implications not contained in the report.

8. PERSONNEL IMPLICATIONS

- 8.1 There are no personnel implications not contained in the report.

9. CONSULTATIONS

- 9.1 There are no consultation responses not contained in the report.

10. RECOMMENDATIONS

- 10.1 Scrutiny Leadership to consider and comment on the draft expert witness protocol and guidance before publication on the Members Portal.

11. REASONS FOR THE RECOMMENDATIONS

- 11.1 To ensure that the changes as a result of the scrutiny review are implemented.

12. STATUTORY POWER

- 12.1 Section 21 of the Local Government Act 2000.

- 12.2 Local Government (Wales) Measure 2011.

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Background Papers:
Scrutiny Review Council 5th October 2015
Protocol for Scrutiny Committee Forward Work Programmes
Protocol for Report Requests
Protocol and Guidance for Task and Finish Groups
A Practical Guide to Scrutiny

Appendices:
Appendix 1 – Draft expert witness protocol and guidance

Scrutiny Committee Expert Witness Protocol

External Witnesses

A scrutiny committee may invite any person to address it, in order to discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and representatives from other external organisations and shall invite such people to attend.

The participation of external organisations and individuals in the scrutiny process is fundamental to ensure that each scrutiny review achieves a balanced perspective. It is vital that local people and community interests have an opportunity to have their say and that Members hear their views. Collectively, this brings an in-depth day-to-day knowledge of subjects which is invaluable.

The scrutiny committee should consider if there are potential equalities implications upon on groups or individuals who fall under the categories identified in Section 6 of the Council's Strategic Equality Plan and consider if external witnesses should be approached.

Details of the public and stakeholders can get involved are publicised on the Council website alongside a guide 'A Practical Guide to Scrutiny'. The public can comment on items detailed on the scrutiny committee work programme and also make suggestions for topics. The Scrutiny committee will consider these requests when finalising their work programme and decide who would be appropriate to invite.

It is important that the scrutiny committee ensures that it has a balanced approach when deciding on witnesses. For example, if a group with a singular remit or purpose were to be invited, it would be important to ensure that a witness with a counter argument is given the opportunity to speak, if they exist. The scrutiny committee should also explore if there are any recognised organisations with expertise in the subject area that could provide additional evidence.

The scrutiny committee should consider if the report to be considered would benefit by extending an invitation to an expert witness who can enhance the scrutiny of the report against the following wellbeing goals:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales

Cross reference - {Protocol for Scrutiny Committee Forward Work Programmes}
{Protocol for Report Requests}

Task and Finish Groups

Where Task Groups conduct investigations they may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:

Cross Reference – {Task and Finish Group Protocol}

(a) That the investigation is conducted fairly and all members of the group are given the opportunity to ask questions of witnesses, and to contribute and speak.

(b) That those assisting the group by giving evidence be treated with respect and courtesy.

(c) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

External Advisers

External Advisers provide expert knowledge and a valuable independent perspective on the policy or service being examined as part of a scrutiny review.

An independent perspective can be achieved by co-opting a specialist on to the Task Group for the period of the review. Co-optees will sit alongside other members of the Task Group and are able to hear evidence, ask questions and contribute to the findings. They are appointed because of their specialist knowledge and/or expertise. Co-optees do not have voting rights.

Task and Finish Group External Witnesses

The Task Group will normally formally invite witnesses to a meeting after consideration and agreement at the project planning stage. The following should apply:

- There is no pre-set maximum to the number of witnesses.
- The time and commitment made by external witnesses is appreciated and the group will show all witnesses courtesy and respect at all times.
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- Questions should be asked one at a time and witnesses should be given sufficient time to answer questions without feeling harassed or under pressure to give answers.
- Members of Scrutiny Task Groups will hear evidence from witnesses in an impartial manner and without passing judgmental comments.
- Prior to the meeting, witnesses should receive information on the background to the scrutiny review and the area of questioning.
- In order to help the Task Group do its job, contributors should present their evidence whether written or oral, in a concise clear, jargon free manner. Initials and acronyms should be avoided wherever possible.

- Where possible, witnesses should also be provided with the opportunity to provide a written submission. If received in advance of a meeting, questions of clarification will be possible.
- Following the meeting, witnesses may be asked to provide written documentation to support the answers and views that they have given.
- Any questions from either officers or external witnesses will be directed through the Chair at all times. The Chair will have final discretion on any questions put forward.
- Any written documentation must be submitted at least 48 hours prior to a Task Group meeting taking place.