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The Life of the Party

How do party political groups impact on scrutiny?

The CfPS Research

In August and September of 2007, the Centre for Public Scrutiny undertook a replication and extension of the research conducted by the ELGNCE team at the University of Manchester on behalf of the Office of the Deputy Prime Minister in 2004. The aim of the CfPS research has been to discover to what extent the level of political party group involvement in overview and scrutiny has changed over time. The research has two distinct strands; a quantitative survey of non-executive scrutiny councillors and a qualitative discussion group of councillors who discussed the results of the research and the reasons behind the visible changes.

The following report will attempt to discuss and analyse the results of the research in order to provide answers to key developments in overview and scrutiny since the initial legislation.

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Acknowledgments

The Centre for Public Scrutiny would like to thank all of the non-executive scrutiny councillors who responded to the survey and the delegates who attended the national scrutiny roundtable discussion. The CfPS would also like to thank the officers who have supported and contributed to this work, as well as members of the CfPS Advisory Board who discussed and commented on a draft of this paper in October 2007.

We are also very grateful to Birmingham City Council's Overview and Scrutiny department for the use of facilities at the Council House on the 4th of September.

introduction

The introduction of the overview and scrutiny function through the Local Government Act 2000 undoubtedly brought about a significant change in the traditional operation of political party group, which under the committee system had functioned to ensure a majority for the ruling group's position (and an expression of the counter positions held by the minority groups) in each service or policy committee. The national guidance issued in 2000 to support the implementation of the Act acknowledged the change in " the way members have traditionally questioned decisions" and stated that although it was a matter for political parties to consider, "the Secretary of State believes whipping is incompatible with overview and scrutiny and recommends that whipping should not take place."

However, in 2004, a study for the Office of the Deputy Prime Minister revealed that thirty-five percent of councillors attended political party group pre-meetings and sixteen percent of councillors admitted that they had been whipped by their party group prior to overview and scrutiny. It was not only actions that went against the original guidance on the operation of the scrutiny function; almost thirty-two percent of councillors believed that party group pre-meetings were necessary before scrutiny committee meetings. The ODPM research concluded that the introduction of scrutiny has been "problematic" as it had been an entirely new form of councillor activity that required different skills and a strong challenge to the party political norms that had informed the previous system. The research team were genuinely worried about the development of the function and the consequences for local governance.

Given that six years have passed since the implementation of the Local Government Act and three years since the research conducted on behalf of the Office of the Deputy Prime Minister, it is necessary to take stock and question the extent to which the political party group still plays a significant role in today's functions of overview and scrutiny across England and Wales.

"Overview and scrutiny represents not only a key check and balance on the activities of the executive, but also a challenge to the dominance of the political party group system in local government."

Leach, S & Copus, C (2004) "Scrutiny and the Political Party Group in UK Local Government: New Models of Behaviour" **Public Administration** Vol 82, No 2. pg 331

the party group and scrutiny

This discussion paper focuses on the impact of **the political party group** on the overview and scrutiny function in local government. The original national guidance on new constitutions issued in 2000 identified two key roles for overview and scrutiny to help "achieve enhanced accountability and transparency of the decision making process...developing and reviewing policy; and holding the executive to account." It also emphasised that to be effective in these roles: "overview and scrutiny should be constructive and not merely be there either always to oppose the executive or to rubber-stamp the executive's decisions."

It is widely acknowledged seven years on that the political culture of an authority has a significant impact on how the political party groups view the role of overview and scrutiny in their authority and subsequently on the success of overview and scrutiny in fulfilling its roles. For example, in authorities with one dominant party, the success of overview and scrutiny can be dependent on scrutiny councillors of the same party group being able to openly criticise and scrutinise the actions of an executive of the same party coupled with the ability of smaller parties on the authority to subsume short-term political point scoring in favour of the "critical friend" approach. Both of these require that political party groups ask members to act in the spirit of the original overview and scrutiny legislation. In authorities where a politicised culture remains strong in overview and scrutiny, solutions such as the sharing of scrutiny chairs, small 'task and finish' groups and inclusive work programmes can go some way towards helping achieve this spirit. This report seeks to understand how far things have changed - or not - since the original 2004 research which found that a politicised and "problematic" culture remained strong in overview and scrutiny.

It should be emphasised that the report **does not dismiss the role or value of political parties** in local government and certainly does not disregard the importance of political values as a motivating factor for elected members and as providing a clear basis for decision-making, prioritisation and allocation of resources .

Survey Research

The results of the quantitative research from non-executive scrutiny councillors are very significant for the overview and scrutiny function. From the three replicated topics from the ODPM research, positive trends are all clearly apparent.

Pre-Scrutiny Political Party Group Meetings

In 2004, it was reported that 35% of scrutiny councillors attended party group meetings before scrutiny committees. In 2007, the results from the survey show that only 22% of scrutiny councillors currently report that they are asked to attend party group pre-meetings. In the Centre for Public Scrutiny's research, we also asked the reasons why scrutiny councillors attended party group pre-meetings to ascertain why they have been a recurring feature in overview and scrutiny; some of the responses received are below:

"In order that the administration group scrutiny members know the position taken by their cabinet colleagues."

"We only have [pre-scrutiny party group] meetings when there is a contentious issue"

"We hold pre-scrutiny meetings in order that, if possible, we have a united view."

"To coordinate strategy and tactics"

"To establish and coordinate a group view"

"To decide strategy and either how to get something through or embarrass the majority party"

Although some of the responses given indicate a politicised view of overview and scrutiny, the majority of responses reported a suspicion that it was another party group which held meetings prior to overview and scrutiny meetings. For example:

"I believe the [named party] do. I imagine that they do this in order to decide the issues in advance."

"I suspect that this may happen but I have no direct evidence."

"[Named party] members are instructed before every meeting"

From the responses to the open question, which was an option for those who said that their authority held pre-scrutiny political party group meetings, it is clear that most responses were based on a suspicion that another political party used pre-scrutiny meetings to formulate agreed party lines or decide issues. These kinds of suspicions may have significantly inflated the figure of the proportion of authorities who were reporting the use of pre-scrutiny party group meetings. However, it is generally positive to see that this practice has been falling.

The CfPS research also replicated the ODPM research by asking scrutiny councillors whether party meetings should be held before OSC meetings. By asking this question, one is looking for an individual's belief in a practice and by tracking this type of questioning over time one can identify whether the councillors involved in scrutiny are changing their opinions. In 2004, 32% of councillors believed that party group meetings *should* be held before overview and scrutiny meetings.

In 2007, only 15% of scrutiny councillors believed that party meetings *should* be held prior to overview and scrutiny meetings. This drop of 17% since 2004 is significant and indicates that the collective view of councillors involved in scrutiny has positively changed.

In 2004 it was revealed that 16% of respondents reported that they were subject to a party whip in relation to overview and scrutiny. Both the original and national guidance and all subsequent guidance from advisory bodies and associated local government organisations has consistently recommended that this should not take place. In 2007, this number has dropped slightly to 15% of scrutiny councillors. Again, the CfPS research asked respondents who answered that they were subject to a whip for overview and scrutiny to explain the reasons behind this. Below are some of the responses received;

"So the ruling group win every vote"

"To make clear what position is expected by the party"

"Applied indirectly by members, knowing that to vote against the executive means loss of any position held within the group"

"[In order] to dissuade decisions being called-in"

"We are criticised if we vote for an opposition motion"

However the majority of explanations were again implying that it was other parties, rather than their own, which used the whip for their own means. For example:

"It is clear that the [named party] members of OSC see it as their role to protect the [named party] executive from criticism"

"We believe certain other parties do from time to time"

"The majority party feels the need to control everything"

"[They do it] to stop work being done by scrutiny"

"Only the majority party apply whips. Reasons include saving face, preventing items getting to scrutiny, exercise of power by the executive etc."

Chairing Scrutiny

The 2000 guidance and subsequent consideration of best practice recommended the sharing of overview and scrutiny chair positions amongst a range of political parties rather than using a large majority (and its associated power) to take all of these roles. In 2004 the OPDM research revealed that 50% of non-executive councillors believed that chairs of overview and scrutiny should not be from the majority party. In 2007, the CfPS research has discovered that this number has risen to 58% of respondents. This trend could indicate that attitudes have changed towards valuing a wider distribution of power in relation to the overview and scrutiny function.

In district or borough councils, the percentage of respondents who believed that chairs of overview and scrutiny should not be from the majority group was 60% compared to upper-tier / single-tier authorities where the percentage was lower at 57%.

Unsurprisingly, in authorities with the majority party having more than two thirds of available council seats, the percentage of respondents who believed that chairs of overview and scrutiny should not be from the majority party dropped to 54%. In authorities where the majority party had less than two-thirds of council seats, this number rose to 62%.

Using age as a variable, when classified into two age groups (18-54 and 55+), the younger age group of scrutiny councillors reported 64% of respondents who believed that chairs of O&S should not be from the majority party compared to only 55% of those in the upper age group.
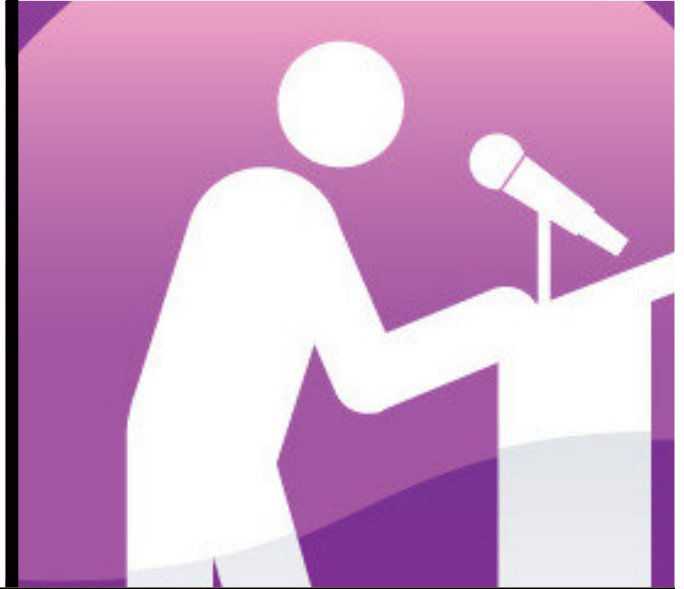
Briefings Prior to Elections

In the CfPS research, we also put new questions to scrutiny councillors in order to filter out some more messages from the development of overview and scrutiny. For example, we asked whether, prior to election, councillors had been briefed about overview and scrutiny by their political parties. Only 18% of all respondents had been briefed beforehand by their party. In terms of balance on the authority, councils with a majority group with more than two-thirds of council seats seem to result in a higher briefing rate by political parties (21%) compared to authorities with a majority group with less than two-thirds of council seats (14%).

Furthermore, where authorities have called-in decisions, 20% of respondents had been briefed about the role of overview and scrutiny by their party group compared to only 10% of respondents having being briefed in authorities where there had been no called-in decisions.

Groupings at Committee

Another new question asked whether scrutiny councillors sat together as a party group within the overview and scrutiny committee meetings. The closed-question format allowed the respondent to choose how often they sat together according to party group; either always, most of the time, some of the time, occasionally, not very often, not very often at all or never. The responses reported that most respondents sat together "most of the time," and combined with "always sitting together" accounted for almost 50% of all answers. Only 20% of scrutiny councillors reported that they never sat in overview and scrutiny meetings according to party groups.

When combining the data from this question with the data from questions relating to pre-scrutiny party group meetings and the application of the whip, it is clear that those respondents who are more likely to sit together according to party group are also more likely to conduct party group pre-meetings (37%) and be subject to the application of the party whip (31%). Similarly, those respondents who "never" sit together according to party group are less likely to report pre-scrutiny party group meetings (7%) and did not report any application of the party whip (0%). Although no causality is implied, it is clear that there are commonalities between the variables that indicate a politicised overview and scrutiny function.

Sitting together?	Pre-party meetings	Application of whip
"Always" or "Most of the time" (50% of all respondents)	37%	31%
"Never" (20% of all respondents)	7%	0%

The Call-in Mechanism

The research also asked about the procedure of the call-in mechanism in scrutiny functions in order to ascertain the political dynamics of its usage. The research asked about the last time a decision was called-in at the authority; whether the call-in was made by scrutiny councillors from the same party (excluding the administration group), from a range of party groups (excluding the administration group), from a range of party groups (including the administration group) or scrutiny councillors of the administration group. It was found that call-ins made by scrutiny councillors of the same party group but excluding a member of the administration were least likely to be successful with a call-in (6% full success rate or 30% including partial success) and the most successful were call-ins made by scrutiny councillors who were also members of the administration group (50% full success or 75% including partial success.) This very wide difference of full success (6% to 50%) demonstrates that the call-in can very easily be used as a political tool but that when it is, its effectiveness is limited.

Even more tellingly, the rates of success for cross party working were also much higher compared to 'one-party' action. For example, call-ins from a range of party groups (excluding a member of the administration group) had a full or partial success rate of 44% and call-ins from a range of party groups (including a member of the administration group) had a full or partial success rate of 59%. Some cumulative data is shown below to highlight the differences between cross-party and single-party party call-ins.

Source of call-in	Full Success	Full or Partial Success
Same party group (non-administration) call-in	6%	30%
Cross-party (either including or excluding an administration member) call-in	21%	50%

Legislative Developments

Some of the latter questions in the research asked respondents how they felt the new legislative developments such as "area scrutiny committees" and the "Community Call for Action" would affect the party political involvement in overview and scrutiny. Interestingly, both developments seem to indicate to roughly a third of respondents that party political group involvement will strengthen as a result. This is in contrast to roughly 15% of respondents who thought that the new developments would weaken the grip of the political party groups on overview and scrutiny.

Furthermore, 13% of respondents felt that "area scrutiny committees" would strengthen party political group involvement in scrutiny a lot – compared to only 6% of respondents thinking that the CCfA would strengthen party political group involvement in scrutiny a lot. This difference could be explained by the concentrated nature of "area scrutiny" (i.e. an area may be dominated by a single political party and hence it may be easier to manipulate the scrutiny function for partisan ends.)

Legislative Development	"Strengthen"	"Weaken"	"Strengthen a lot"
"Area Scrutiny Committees"	29%	17%	13%
"CCfA"	31%	12%	6%

Qualitative Responses

As part of the research, the Centre for Public Scrutiny also asked scrutiny councillors if they knew of any particular instances where the political party group has played a clear role in the overview and scrutiny function. Some of the comments received are displayed below; overall the types of comments were both positive and negative.

Positive Comments	Negative Comments
"I feel as a result of overview and scrutiny, the ruling group in this area has had to think far more closely about their policies and how they will effect the community. Therefore, on the whole better decisions have been made."	"Being a member of an opposition of fifteen members, I do believe that overview and scrutiny is a waste of time if the ruling party holds the chair position. The opposition must hold the chair. After all, what are they worried about? It would make a better council."
"I always made it clear to my group leader that my role as a scrutiny member would always override my membership of a political group. This was accepted. There is no room for politics in scrutiny."	"Area scrutiny committees would be disastrous. The major town is dominated by [one party] who would use their group to press for extra funds and facilities there to ensure they are re-elected, while [another party] would do the same thing in the rural areas which they dominate."
"In two years, while I have been chairman, we have achieved unanimity on our forensic questioning style and decision making. We have never required a vote to be taken on any issue (in truth, we almost got to it once and it would have been based on geographic rather than on political grounds). As an aggressive political animal myself I think that is an extraordinary result."	"Scrutiny is a total waste of time. All decisions are taken by cabinet and [one group] dominates everything. The committees are merely opportunities for them and the council to slap each other on the back. Any attempt by opposition councillors to seriously question what is going on is dismissed as criticism. If the general public knew how the whole thing works they would be horrified."
"Our scrutiny committees are made up of members from both political parties. We have called in services we were in danger of losing but with the good work carried out by all of that committee we turned it around to our advantage."	"There is a fair degree of hypocrisy by the administration group leading to much hand wringing and gnashing of teeth at scrutiny, but a reversion to the party whip, often voting the opposite way, at full council."
"Scrutiny should only be concerned with the performance of the council/executive/services, never tailored to suit a political agenda or purpose. The process must be apolitical in every respect to be effective."	"The authority has councillors who are members of two political parties. Members of the administration chair all the scrutiny committees, the overview groups and there is also a one party cabinet. In addition, area committees are grouped by area in order to enable majority party members to outnumber members of the minority party."
"Our group's standing orders do not allow group members to meet prior to scrutiny panels and make it clear members are from the group whip when sitting on a scrutiny panel."	"The administration members are clearly whipped on key issues. We are not. There will only be group discussion of scrutiny issues when they are being/have been discussed in normal group "issues meetings" or as part of our discussion on the cabinet agenda."
"There is no 'political point' scoring and we all tend to work for the good of the authority."	"On one occasion we called in a decision and we were asked by a member of the ruling party if they could sign up to it but withdrew before the meeting."
"One of our area committees has just initiated a scrutiny group on a neighbourhood issue, with unanimous support across parties, and with the support of the central scrutiny committee."	"We have had open experiences of lead members asked to attend scrutiny to explain a decision publicly telling their party's scrutiny reps how to vote, and instructing them to nominate administration party representatives to become chairs of scrutiny against nominations from other parties, regardless of talent or ability level. This clearly political line has already served to undermine scrutiny."
"The majority of councillors feel that we should influence decisions prior to their being taken and therefore call-ins are not used a lot."	"The party group have a party meeting before the first meeting of the new committee to choose their chair and vice chair"

Group Discussion

At the CfPS discussion group about political party group involvement in the overview and scrutiny process held at Birmingham City Council on Monday 4th September 2007, there was a detailed discussion about the issues raised from this research.

Primacy of Party?
Key to the discussion of the topic was the issue of whether one should give primacy to their membership of a political party before the evidence provided within the overview and scrutiny function. It was argued by one member that councillors are elected because of their political party and shared values and this should override any obligation to be apolitical in council meetings. It was countered that there should be ways of managing values rather than telling them not to be there. This opened a wider debate about the role of the councillor in democracy; for example, why councillors are elected – are they elected to act on behalf of their constituents or follow the party line at all times, and is there a middle way between these two extremes?

Manifesto commitments?
The importance of manifestos at election time was emphasised as these are built around a set of commitments and beliefs that may override any subsequent evidence received at overview and scrutiny meetings. It was raised that scrutiny work may not affect the 'electability' of members at election time and its importance relative to electoral issues will therefore be lower. Others countered this argument that manifestos are fluid and "broad-brush" and do not necessarily map onto how a council actually works. Members argued that 'common sense' in this regard should take precedence over the party line. It was also pointed out that the majority of decisions and issues at stake in overview and scrutiny are politically not contentious; therefore it was difficult to see why there had been so much involvement from the political party groups.

Pre-decision scrutiny
Members raised the example of pre-decision scrutiny as a case where political party group involvement has not been a problem. In this function of O&S, issues and topics are discussed prior to being raised elsewhere; allowing a free, cross-party and evidence-based investigation of the issues to take place.

September 2007

Event:
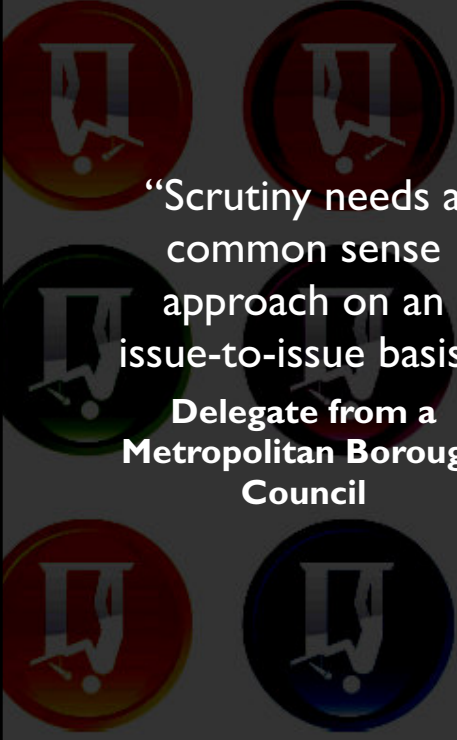Centre for Public Scrutiny
Scrutiny Member Roundtable

The Life of the
National Roundtable Dis

"Scrutiny needs a common sense approach on an issue-to-issue basis."
Delegate from a Metropolitan Borough Council
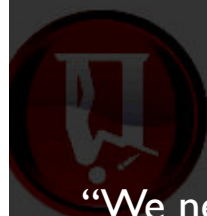
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oundtable Discussion

Inserts

Agenda

Delegate List

Roundtable Questions

Presentation Slides

"We need to look at ways of managing values rather than telling them not to be there"

Delegate from a London Borough

Task and Finish Groups

Members also raised the usage of task and finish groups as examples of effective cross party working. One member said that these groups often involved six months of evidence-based and cross-party intensive work, which builds up a consensus and as a result, lots of recommendations are accepted.

Work Programmes

One member noted the difficulty involved in contributing to the scrutiny work programme when political party groups were involved in the process and sought to influence the priorities of the work programme. Another member highlighted occasions where a scrutiny chair at his/her own authority had taken on many items from opposition groups. However, from the general discussion, it was clear that the work programme was one of the more contentious issues in terms of political party group involvement in the overview and scrutiny function.

Whipping

Another issue raised was about the results of the research that indicated that a number of councillors still reported that they were subject to a whip for overview and scrutiny. Some members at the discussion explained that the reason for the high numbers of respondents to this question was that they were probably subject to an implicit, or self-imposed, whip rather than an explicit whip. For example, members may feel under pressure to toe the party line in votes due to thoughts of genuine loyalty, as well as their future in the party and possibilities of internal promotion.

Legislative Developments

Towards the end of the discussion, members pointed out that legislative developments such as the Community Call for Action (CCfA) could lead to a reappearance of the political in the scrutiny function. For example, one member said that this particular mechanism had the potential to bring "mischief back to the fore."
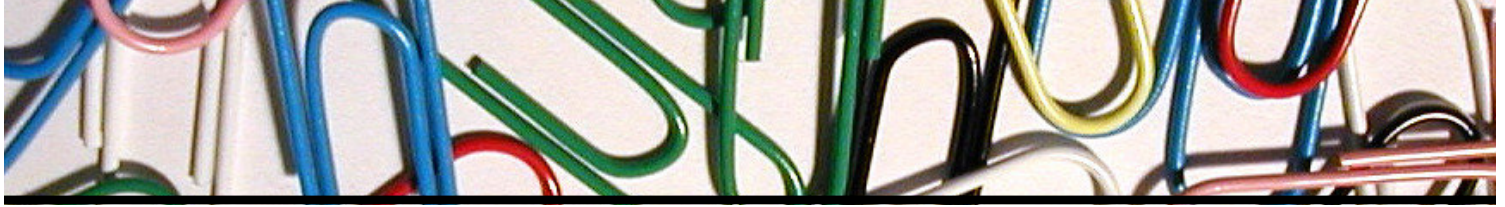
Conclusion

From the quantitative research of non-executive scrutiny councillors, it is clear that political party group involvement in overview and scrutiny has been in decline since the research conducted in 2004. The number of respondents who have reported pre-scrutiny party group meetings and the application of the whip has clearly decreased, as has the percentage stating that they believe it is appropriate for the whip to be applied.

However there are other significant findings from the research which seem to point to a persistence of party groups in the scrutiny function. For example, using new questioning, it has been discovered that when in committee, almost 50% of respondents report that they sit together as 'party group' either always or most of the time. The majority of call-ins are made by members from a single (non-administration) party group and are almost never fully successful. Therefore, although the headline figures of political party group involvement are significantly down since 2004, there are other **new areas of evidence that clearly show that party group involvement in overview and scrutiny has certainly not faded away**.

One thing that was patently clear, however, particularly from the group discussion, is that cross-party, consensual and evidence-based overview and scrutiny has definitely been on the increase in the later formative years of the scrutiny function. The majority of members who attended the discussion were keen to emphasise that the usage of pre-decision scrutiny of issues and small, issue-based 'task-and-finish' groups were almost completely free from political party group involvement. However, the discussants were also quick to point out that political party group involvement was still evident when setting the work programmes and scrutinising controversial issues.

It is important to recognise the 'primacy of the political' in influencing elected members' attitudes and behaviours. Members in the discussion often stated that they had been elected as a member of a political party and therefore would serve in the ways 'expected' by their ward constituents. Hence members were more likely to respond positively to party group discipline and procedures—regardless of what function they were undertaking for the authority, simply because it was the 'will of the party' under whose banner they had been elected. A minority of discussants at the event stated that they would always give precedence to the decisions of their political party group over the procedures and guidance of overview and scrutiny.

It proved difficult to reach a consensus in the discussion as to whether it was acceptable to maintain a level of political party group involvement in overview and scrutiny. The academic research points in one direction and has raised concerns about the 'problematic' nature of how overview and scrutiny operated in the early days of its introduction. This most recent research by CfPS has highlighted that a strongly partisan operation of overview and scrutiny may be becoming less acceptable as fewer councillors believe it is appropriate to hold political pre-meetings and more support the sharing of chair positions on a cross-party basis. However, old habits and loyalties still seem to die hard, and the tension between party loyalty and objective policy review and challenge remains a key challenge facing overview and scrutiny today.
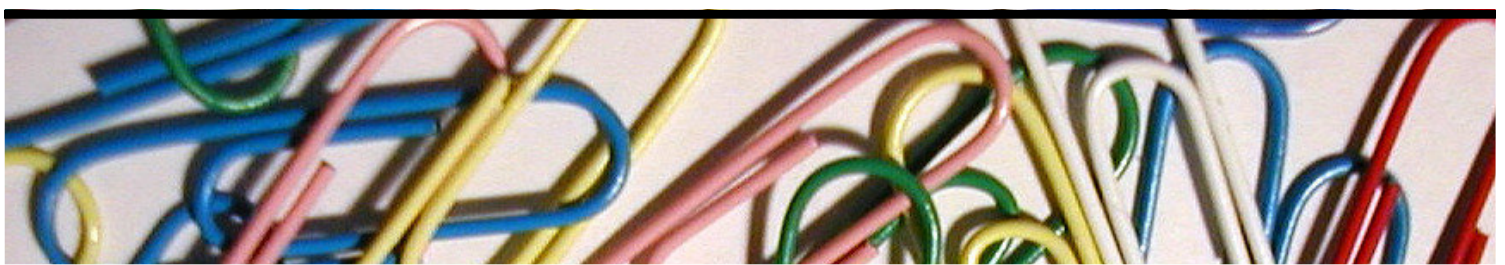
Bibliography

New Council Constitutions: Guidance to English Authorities, ODPM 2000, S3.44
New Council Constitutions: Guidance to English Authorities, ODPM 2000, S3.15
New Council Constitutions: Guidance to English Authorities, ODPM 2000, S3.30

Please note that at the time of the research, "Community Call for Action" had not then been rebranded as "Councillor Call for Action"

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This is the first in a new series of reports from CfPS that focus on its four principles of effective scrutiny. The first report explores the first principle: "providing critical friend challenge". The report examines effective questioning as a key component of a "critical friend" challenge.

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Please note that this research paper is based on a survey of non-executive scrutiny councillors between August and September of 2007. For more information about the methodology used in this paper, please contact the author in all circumstances.

Unlike the CfPS Annual Survey, the CfPS will **not** be publishing the full dataset from the survey. Due to the Data Protection Act and the possibility of respondent identification from survey responses, the full dataset will be destroyed soon after publication