

# Response to CLG Committee review of its own work since 2010 from CfPS



## Introduction

The Centre for Public Scrutiny is a charity whose principal focus is on scrutiny, accountability and good governance, both in the public sector and amongst those people and organisations who deliver publicly-funded services. We believe that accountability, transparency and involvement should be the foundations of planning and delivering public services. Effective scrutiny and accountability can hold services to account and create opportunities for communities and decision-makers to improve the quality of services by producing solutions to problems together.

The Centre supports individuals, organisations and communities by sharing research and analysis of current and developing best practice through publications, consultancy and events. We also create and support networks and on-line forums. The bulk of our work focuses on local government and the wider localism agenda, but we also work extensively with and for health and social care bodies, and others such as police, park and fire authorities, housing associations and other housing management organisations, universities, regulators, Parliament and select committees and government departments.

The Centre for Public Scrutiny is an independent charity (charity number 1136243) and company limited by guarantee (company number 5133443), governed by a Board of Trustees and supported by an Advisory Board. There are three Trustees from our founder members (LGA, CIPFA and LGiU) and six independent Trustees, including the Chair, the Rt Hon Nick Raynsford MP.

Our response is informed by responses and feedback we have gathered from consulting with overview and scrutiny networks and local council scrutiny functions around the country, and by the findings of a recent survey we carried out into barriers to effective local scrutiny, as well as our ten year base of knowledge of how overview and scrutiny works in local government in England and Wales.

The contents of this response is as follows:

Pages 1-6 Response to Committee's questions (2,300 words)

Pages 7-12 Appendix 1 Report of November 2014 survey into scrutiny effectiveness

Pages 13-23 Appendix 2 Scrutiny and Accountability models for devolution

## 1. How the Committee has carried out its work since 2010

1.1. We welcome the fact that the CLG Committee has led the way in terms of gathering more evidence in different ways, not purely through holding formal committee hearings

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with witnesses at Westminster. The inquiry into frontline councillors which involved the Committee going to meet councillors and local communities around the country is an excellent example. We would like to see more of this kind of approach, as well as the recent innovation of seeking questions via social media to put to the Secretary of State.

1.2. We would also like to put on record our gratitude for the willingness of the Chair, other Committee members and Committee clerks to engage with local scrutiny practitioners (members and officers) through the CfPS Parliamentary Seminars series throughout this parliament. This willingness to explain how select committees work and to have detailed discussions about the differences and similarities between national and local scrutiny is greatly valued by local councillors and officers as a way of improving their scrutiny practice.

## **2. How could local government and those providing local services have been scrutinised more effectively?**

2.1. We believe – and this is strongly endorsed by feedback we received from local scrutiny practitioners – that it is important to take a balanced approach to assessing the effectiveness of local scrutiny. We would endorse the proposal that the effectiveness of local scrutiny forms a topic for review by the Committee in the next Parliament, but would make a number of suggestions towards the scoping of such a review.

### **2.2. Importance of not over-generalising from individual examples**

There is a need for detailed national research to establish the true extent of the weaknesses in local scrutiny that were exposed in the Rotherham, Mid-Staffs and other cases. It is important not to over-generalise from individual examples as it is widely acknowledged that overview and scrutiny functions are highly diverse and varied in how they operate and it would be inadvisable to draw general conclusions from one or two cases. Our response to question 4 below suggests one way of avoiding this and ensuring the Committee's inquiry is strongly evidence-based. We at CfPS have carried out a small survey which suggests that there may well be a need to probe deeply into the causes and potential barriers to effective local scrutiny and this is attached as **Appendix 1** (shortly to be published separately). However, it was a limited sample and should be balanced against the many significant examples of good practice in effective local scrutiny which we highlight every year through our Good Scrutiny Awards and publications such as [Successful Scrutiny](#).

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### 2.3. Impact of resource reductions for scrutiny

A major line of inquiry for the review should be to examine the continuing resource reductions facing local authorities and the impact of this on scrutiny's effectiveness and capacity. CfPS's [latest Annual Survey of Overview and Scrutiny in Local Government](#) demonstrates that staffing support for local scrutiny is at its lowest level since 2004, and that discretionary budgets to support independent scrutiny research and analysis have also been falling. We understand that all local authority budgets have been hit by the squeeze on public sector spending and that scrutiny cannot be exempt. However, these reductions must be balanced against the multiple and growing expectations now placed on local scrutiny councillors:

- statutory responsibilities to hold to account local authority executives and a range of partner organisations (health, crime and disorder, and flood defence agencies);
- to listen to and engage the public and service users, particularly following the lessons from the Francis Report into Mid-Staffordshire Hospital;
- to [provide assurance to central government](#) about the impact of local expenditure, in the absence of a central performance monitoring regime, as a key element of the "local accountability system" (see p30 of the linked NAO report on "Local government funding: assurance to Parliament").

### 2.4. Role and attitude of leaders and senior officers

We believe that it is important to judge the effectiveness of scrutiny alongside the effectiveness of leadership - and its willingness to be challenged as part of a process of continuous improvement and as a key element of transparent, open government. Confident leaders are open to challenge because they are happy that they can defend or explain what they are doing and are willing to listen to ideas to help them further improve. However, this is not always the case, and poor, weak scrutiny may be as much a symptom as a cause of poor, weak leadership (counter-intuitively manifesting itself in efforts to suppress scrutiny or challenge) of the authority. As our November 2014 survey shows, leaders do seek to control the operation of scrutiny (selecting the chairs, for example, in one third of councils who responded) and limit scrutiny's access to information.

It would be important for any review by the Committee to try to get beyond general expressions of support from leaders for the *principle* of scrutiny and accountability to understand how it really works in *practice*. The [LGA's evaluation of the effectiveness of the sector-led improvement framework](#), for example, included a survey of leaders and chief executives, where 97 per cent of chief executives and 96 per cent of leaders either agreed or strongly agreed with the statement "local accountability is strong in my authority". The Committee's review would need to unpack such statements and

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understand what leaders really think about local accountability and whether and how they enable it to happen in reality. It is worth noting that amongst Chairs of scrutiny in the LGA survey, 76 per cent agreed or strongly agreed with the statement about local accountability, a fall of twenty percentage points – although this is still a positive finding and important to set against the individual examples of governance failure, as emphasised above.

## **2.5. Impact of party politics**

Allied to the point about leadership is a need for the review to understand the impact of politics and political culture on the effectiveness of scrutiny. Our November 2014 survey suggests there are issues around how scrutiny works in councils with large majorities, and our [larger 2013-14 annual survey](#) indicates that there is a correlation between some of the measures of scrutiny effectiveness and value, and councils being in no overall control. We can also see a clear correlation between majority control and a tendency to retain all scrutiny chairs within the majority party. Again this is not universal, and there are plenty of examples of councils with large majorities where scrutiny committees are chaired by the Opposition. We would also emphasise the importance of councils being able to retain some flexibility regarding chair appointments and that we do not seek to remove politics from local authorities as it is an inherent part of how they work in our democracy. However, we believe that there is a need to demonstrate that scrutiny can rise above overly partisan politics and that it is able to contribute effectively to good governance – and the selection of the best chair for the role is a key element of achieving this. It may therefore be worth the Committee seeking evidence about the different ways in which party politics impacts on scrutiny's effectiveness and, in particular, exploring methods of choosing Chairs in any review.

## **2.6. Governance not just scrutiny**

Finally, we feel it is important for the terms of reference for any review to explore wider issues around good governance in local government and not focus solely on the operation of overview and scrutiny. This is because of all the points made earlier in this response about the impact on scrutiny of a range of different factors, meaning that ineffective scrutiny may be only one of a number of features of weak or poor governance in an authority. A review of local governance will enable the Committee to explore the roles and responsibilities of leaders and senior officers, and to seek evidence of the impact of resource reductions on decision-making processes and effectiveness more widely. It will also enable a consideration of the many changes to the landscape of local public services that have occurred and are likely to continue to develop after 2015, for example the development of local partnership arrangements.

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### **3. What changes and challenges can be expected from 2015, which may affect the work of the select committee scrutinising DCLG and local government?**

3.1. As set out in the last bullet point under question 2, we feel that the biggest change and challenge that can be expected is the development of many different forms of partnership arrangement affecting local service delivery, resource allocation and decision-making, including Local Economic Partnerships, Combined Authorities and further devolution of power and resources to local areas, potential further reforms to Policing governance, Health & Wellbeing Boards and further health and social care integration. We do not feel that the governance and democratic deficit issues that arise from many of these changes have been fully explored or understood, and since it seems likely that whatever the outcome of the 2015 General Election, they are likely to continue to evolve further, there is a pressing need for these implications to be properly explored.

3.2. The DCLG Committee, Public Accounts Committee and National Audit Office have all expressed concerns about the impact of the development of all these local partnership arrangements on existing systems for accountability and scrutiny, but there is a need for an in-depth piece of work to properly understand what needs to change in our existing system of government to ensure proper oversight and accountability for these new ways of making decisions and spending public money. Our forthcoming think piece exploring how new systems of local accountability might work in the light of the Greater Manchester and Sheffield City Region devolution deals (attached as **Appendix 2**) highlights why relying on existing approaches will not be sufficient. We would welcome the DCLG Committee reviewing the implications of further devolution on democracy and accountability. It may be worth considering whether a joint review in partnership with the Public Accounts Committee would be worthwhile as these changes at local level have major implications for Parliament's overall ability to track the taxpayers' pound, and a joint review by the two Committees would be able to capture implications for both local and national governance.

### **4. How the Committee has handled and weighed up evidence**

4.1. We believe that more use could be made of commissioned research to inform the Committee's inquiries. For example, if the traditional approach of issuing a call for evidence and examining written and oral submissions to inform the Committee's conclusions was used in the suggested review of the effectiveness of local scrutiny, there would be a danger of drawing conclusions based only on those who had submitted evidence or of giving undue weight to a small number of experiences, which may be biased. As discussed earlier, there is great variation in the operation of local scrutiny and

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the Committee needs to understand a fully researched and nuanced picture across the piece. Commissioning a piece of research to provide both quantitative and qualitative evidence of how scrutiny is operating would provide an excellent baseline from which the Committee could then draw out further lines of enquiry to explore in more depth through the traditional means. This approach could be adopted for any major inquiry, but we feel very strongly that an in-depth national study is required to provide a solid evidence base on which the Committee can draw. We know that the Committee recommended that DCLG should commission such research and we followed it up with the Department but have had no indication that they intend to do so – quite the reverse. So in the absence of that commitment, we feel the Committee could commission some specialist research itself.

We hope that this is helpful and would be happy to expand on anything we have said here in more detail if the Committee would find that helpful.

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## Appendix 1 Hiding in plain sight: barriers to effective council scrutiny FINAL DRAFT text

### Context

The Alexis Jay and Robert Francis Reports into appalling service failure in local public services have, amongst other things, illuminated the risks of weak overview and scrutiny – either in the commitment of non-executive councillors to carry out their scrutiny role or in the commitment of political leaders and others to respect and support the scrutiny role. Scrutiny by elected members is one of the mechanisms of local accountability currently relied upon significantly to provide assurance to central government, parliament and the public that public funding is being spent effectively and delivering the outcomes that are expected. At CfPS we wanted to try to establish whether the failings highlighted in the Jay and Francis reports are reflective of a wider national picture and to understand what might lie behind these findings.

CfPS already conducts the only national survey of overview and scrutiny in England and Wales which provides an annual snapshot of the state of the local government scrutiny function in terms of resourcing, structures, approaches and overall effectiveness, but we wanted to delve a bit deeper into the specific concerns raised by Jay and Francis around a lack of robust challenge by members, the political culture, and significant obstructiveness from senior officers and members and indeed other public agencies.

### CfPS survey of scrutiny effectiveness 2014

Between September and November 2014 we carried out a survey on Survey Monkey, promoted via our networks and newsletters to scrutiny members and officers in England and Wales. It had 95 responses, a handful comprising responses from two different people at the same authority, 84% of which were completed by scrutiny officers, 5% by members and 11% other. Responses were reasonably spread across the different types of authority. It must be acknowledged that this is a limited sample only, and our main conclusion is to endorse [the recent recommendation of the DCLG Select Committee that there should be a national evaluation](#) of the operation, impact and effectiveness of overview and scrutiny – something which has not happened since the [2004 research commissioned into the operation of the new council constitutions](#) by the then ODPM and carried out by Professor Gerry Stoker et al.

This recommendation is strengthened by the findings that emerge strongly, even from this limited sample, around political and officer culture, the prevalence of barriers to members carrying out their scrutiny role effectively, and what we believe are growing risks and strains in the system of local scrutiny and accountability. We believe that this small piece of research provides further weight to the [concerns expressed by the National Audit Office and Public Accounts Committee](#) around the stresses and strains being placed on local accountability systems by a range of pressures including resource reductions and the development of growing

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numbers of complex multi-agency partnerships and new decision-making bodies. We urgently need to understand better the causes of these risks so that local government can take steps to address them effectively and so that national government – recently criticized by the NAO / PAC and the Department of Health and DCLG departmental select committees for its lack of understanding about the local impact of national spending decisions – can have strong local mechanisms on which to rely.

## Headline findings and conclusions

### Biggest barrier to effective scrutiny? (analysis of free text responses)

1. Member commitment, engagement and skills – 25%
2. Attitude of senior officers – 24%
3. Political culture and leadership – 22%
4. Lack of resources or officer support – 21%
5. Poor scrutiny practices – 7%

### One single thing that would make a difference (analysis of free text responses)

1. More / protected resource for scrutiny, including officer support at senior enough level – 37%
2. More statutory powers, notably over external agencies and to force action on recommendations – 22%
3. Culture change at top, notably tackling impact of large political majority – 20%
4. Member calibre, training and status – 12%
5. Change scrutiny practices, notably more task and finish reviews – 8%

### In a significant minority of councils, scrutiny's requests for information may be being blocked or denied – despite a statutory requirement to provide information to scrutiny

- **36% said scrutiny requests for information were regularly or sometimes blocked or denied**

*“There is an officer & political culture to keep scrutiny away from the real issues”*

- **This could be more a senior officer issue than a political one: 71% said blockages come from senior officers, 40% from leader / cabinet (respondents could tick all that applied, hence totals come to more than 100%)**

*“the problem seems to come from the culture, and the culture very much depends on senior officers/senior members.”*

*“Scrutiny is not universally valued or well understood at a senior management level. It is currently perceived and used as a tick box exercise to try to keep back bench members quiet.”*

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**Large political majorities and strong leaders may inhibit scrutiny's independence. Although CfPS Annual Surveys do not show correlation between political control, allocation of chair positions and effectiveness, there is some evidence that scrutiny is more valued and effective in councils under no overall control**

- **30% said the leader appoints all scrutiny chairs** and 31.5% said the majority group BUT 31.5% said chairs were appointed by non-executive members on a cross-party basis
- **65% give all chairs to the majority party**, with 47.5% taking all Vice-Chairs as well. 35% are held politically proportionately.

*"[We need] elections for Chairmen at full council and enabling non-majority party members to be chairmen."*

- Over 71% authorities responding have a large majority – is this the key political problem for scrutiny?

*"Leadership culture of evading challenge - and feeding fish to scrutiny to keep them busy. Probably a result of large political majority."*

*"Decisions made at Group - large majority do not want to show dissent in public"*

**A worrying minority of council scrutiny functions do not appear to be fulfilling their challenge role effectively, including failing to triangulate what they are told by officers and the executive against the experience of service-users or external benchmarking data**

- **Nearly 25% said scrutiny never or hardly ever robustly challenges executive** (20% said never or hardly ever robustly challenges senior officers)
- **31% never or hardly ever listen to other sources of evidence or service users** to inform their challenge

**The role of the Monitoring Officer is welcomed and valuable but the Statutory Scrutiny Officer role needs to be higher profile, higher status and better understood**

- 61% felt Monitoring Officer supported scrutiny effectively BUT small minority (7%) felt didn't support at all
- 79% would go to Monitoring Officer if they felt they had a problem with scrutiny's access to information etc, 49% would go to Chief Executive, 17% to CfPS
- 34% say Statutory Scrutiny Officer never attends senior leadership team, while 31% say the role is not at all understood.

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## What else do we know?

- CfPS 2014 Annual Survey found that resources and support for scrutiny are at lowest level since 2004 – down to 1.75 FTE
- The trend is towards combining scrutiny and democratic services officers (up to 33% in this latest survey) rather than having a dedicated separate officer or team
- Many districts in particular have no dedicated scrutiny officer at all
- There is a clear correlation in CfPS surveys between effectiveness, following up recommendations and dedicated officer support
- LGA survey in 2012 found that 97% chief executives and 96% leaders agree that “local accountability is strong in my authority” but it is unclear what this means or how this works in practice

## What steps would CfPS recommend to address these issues?

1. We believe it is becoming urgent that a proper research project is carried out to establish and understand the operation, impact and effectiveness of the challenge provided by local authority overview and scrutiny, and the extent to which it is able to carry out the role envisaged for it by statute, government, parliament and public expectation. We acknowledge that the findings reported here are based on a limited sample but believe that this underscores the need for a properly resourced piece of research to establish exactly what the national picture is. Given the wide variation in scrutiny arrangements the exact scope and focus of such a research project should be carefully thought through and it may be more useful to focus on member governance, political and managerial culture or the different roles of executive and non-executive governors and to take a qualitative approach rather than attempting to draw any generalized quantitative conclusions.
2. Given the evidence presented here, which is borne out by all the anecdotal evidence of which we are aware from CfPS’s work as well as the individual examples of serious service failure highlighted by inspections and public inquiries, we call on the LGA and SOLACE to collaborate with us to raise awareness and acceptance of the importance of independent, properly resourced and effective scrutiny and challenge amongst their senior member and officer council leaderships. We know that the best, most confident leaders accept and welcome challenge as helping them and their organisations improve what they do, but too many see it as something to be limited, obstructed and paid lip service to at best. This must change.
3. We call on all councils to review their own member scrutiny and governance arrangements in the light of the Francis and Jay reports to ensure they are providing robust, evidence-based challenge to service delivery and performance that draws on the views and experiences of residents and service-users and provides assurance that risks are being

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appropriately managed. This review should ideally involve some independent, external assessment, for example, using a peer challenge approach or drawing on CfPS's Accountability Works for You methodology for assessing scrutiny's effectiveness, and could be overseen or commissioned by the council's audit committee to provide further independence.

4. We are concerned at the finding that 30% respondents said that scrutiny chairs are appointed by the leader, which must call into question their perceived independence at the very least, although encouraged that slightly more said they are chosen by non-executive members cross-party. We do not have any evidence as to the effectiveness or impact of different ways of choosing scrutiny chairs (something which, again, a piece of national research could address) but believe having an independent mandate sends an important signal about the chair's legitimacy and freedom to act. Given the impact we know a good scrutiny chair has on the effectiveness of scrutiny, we believe the time has come for all scrutiny chairs to be chosen by secret ballot of non-executive members of the council, based on an objective assessment of how well they are able to do the job. This could either be done giving members complete discretion over whom they choose, either across the whole non-executive membership of the council or within the individual committee memberships, or on the basis of a certain proportion being reserved for the opposition as happens now in Parliament.
5. One interesting finding is that very few respondents independently identified either the external auditor or the remaining inspectorates, CQC and OFSTED, as a source of action or support if they were concerned that scrutiny was being obstructed or that an issue was not being properly addressed. We call on industry bodies (for example CIPFA and the big 4/5 accountancy firms) and the two inspectorates to work with CfPS to help them engage better with overview and scrutiny and to raise their profile with councillors as a source of action or support for scrutiny.
6. We have long argued for the importance of triangulation as part of the process of effective overview and scrutiny, and in particular the importance of hearing the voices of service-users, which has been one of our four principles of effective scrutiny since 2004. We note an apparent contradiction in overview and scrutiny practice which is that the many excellent examples of policy review and development (overview) which we see every year, for example, in our Good Scrutiny Awards, seem to adopt these approaches more effectively and readily than what might be described as the scrutiny and challenge element of the role. Challenge sessions seem far more often to involve simply hearing from and questioning cabinet members and officers on performance reports which they have produced, without recourse to external sources of evidence to back-up or challenge what the council is saying. We will redouble our efforts to impress upon scrutiny practitioners the importance of verifying internal evidence against other sources when carrying out performance monitoring, service reviews or cabinet member challenge sessions and call on national service-user, patient and

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other advocacy and consumer groups to work with us to enable overview and scrutiny committees to access the views of their members more readily and effectively.

CfPS

January 2015

Final Draft

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## Appendix 2 Accountability & Scrutiny models for Devolution draft text

### 1. Introduction

On the back of the Greater Manchester and Sheffield agreements with the Treasury for greater devolution in return for governance changes, and the discussions that have been taking place with other local areas about similar deals, questions have been asked about how any new governance arrangements might work in the context of greater devolution. This paper sets out some options for accountability and scrutiny arrangements under different kinds and forms of devolution.

It is worth first of all making the case as to why stronger accountability and scrutiny are important to the future development of both delegated responsibilities and more devolved powers and resources. Stronger governance is identified as a necessary pre-requisite for devolution in the Greater Manchester agreement, but the reasons why and the ways in which it might be delivered are not spelt out in detail. CfPS's own experience around governance, accountability and scrutiny led us to develop our ["Accountability Works for You" framework](#) to help leaders and organisations address culture and values based on principles of transparency, involvement and accountability rather than immediately focusing on structures and processes. These principles can be applied to any devolution and new Combined Authority governance proposals in the following ways:

- Transparency – will there be an open and evidence-based approach to decision making and arrangements to provide clarity about performance and outcomes;
- Involvement – how can a commitment to public participation across the Combined Authority area help a Mayor or Leaders' Board capture a range of data and information to build insight about views and aspirations;
- Accountability – is there an understanding that this helps demonstrate credibility, build support for tough decisions and manage risk through having effective scrutiny of the new arrangements.

Because our framework links outcomes to culture and values rather than structures and processes it helps people to focus on assessing risks and improving outcomes rather than simply measuring process data. We think that the framework could usefully be considered by local areas developing their own Combined Authority / City Region / County Region deal proposals to create some shared design principles for how best to organise their governance and accountability arrangements for the future, building on the ideas set out in this paper but developing them collaboratively with councils and other partners in their areas.

Increasing local democratic control over decisions about outcomes and priorities is important but the context of the challenges and risks faced by local government and public services over the foreseeable future also needs to be recognised. Scrutiny and accountability under the new

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devolved arrangements will need to develop a greater understanding of risk and be willing and empowered to tackle issues that relate to broader corporate governance issues. While joint decision-making in local government is nothing new, looking forward there is a need to strengthen governance, scrutiny and accountability to help local areas better address wider issues of legitimacy, participation and inclusion.

## **1.2 Accountability to Parliament**

Effective scrutiny and accountability will help provide assurance to Parliament under a delegated model that the resources voted by Parliament and delegated to local areas for delivery of agreed outcomes are being properly spent, provide value for money and secure those outcomes. Departmental 'accountability systems statements' currently place great reliance on local authority scrutiny and accountability as sources of assurance, in the absence of a strong central inspection and regulatory framework around local governance. The [NAO](#) and [PAC](#) have already expressed concern that the emergence of multi-agency arrangements for pooling and spending resources at local level is placing current arrangements for scrutiny and accountability under strain, and the [DCLG Select Committee](#) has questioned the overall effectiveness of local scrutiny as it currently functions. Further evolution of place-based multi-agency commissioning and delivery partnerships to which spending is delegated will only add to these concerns, unless local scrutiny and accountability systems are strengthened.

Under a fully devolved model, the accountability link between Parliament and departmental spending and outcomes is further weakened as Parliament cannot reasonably hold Ministers and Chief Accounting Officers / Permanent Secretaries to account for actions, decisions and policies for which they are no longer responsible. Healthcare provides an illustration, where the Secretary of State has devolved a range of commissioning functions previously carried out by the Department of Health. If Parliament wishes to take a national system-wide view of how public money is being spent on a particular issue, it will need to be able to call on local systems of accountability to provide alternative sources of evidence as to how effectively responsibilities have been exercised. Currently the mechanisms and practices do not exist to be able to do this as there is a fracture both within and between national and local scrutiny systems. Using the example of healthcare, Parliament can hold Ministers to account for decisions about overall funding allocations to the NHS but struggles to question the range of organisations involved in ensuring outcomes are delivered with those allocations. The recent PAC hearing on the creation of the Better Care Fund, where half a dozen people were required to attend from various parts of the DH and NHS (and interestingly, just one, the LGA, on behalf of local authorities), illustrates this point.

## **1.3 Accountability to Citizens**

The more complex and indirect that systems and processes of leadership and decision-making become, the more remote and opaque they are for citizens. How do the public make a judgment

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as to whether their elected leaders are doing a good job if their work goes on behind closed doors and involves less tangible 'influencing' rather than tangible actions or control? The creation of an elected Mayor for Greater Manchester provides one answer in that it provides that person with a mandate to make GM-wide decisions. This is an improvement – in terms of simple electoral legitimacy – on the current CA system where the leaders' mandates derive from much narrower, local electoral positions, even where there are local directly elected Mayors. While joint authorities are nothing new in local government, there is a need for scrutiny to ensure politicians at all levels are better held to account in between elections, and this becomes even more important when the decisions are (a) bigger and affect more citizens and (b) less visible and more complex, which shared or joint decision-making arrangements tend to be. Other areas seem less likely to accept the elected Mayor as part of their devolution deals, and will need to think in more detail about how their leaders' individual mandates will deliver collective accountability.

Accountability to citizens is also more important when there are unelected leaders involved in decision-making alongside elected ones. Increasingly we are seeing hybrid decision-making forums such as Health & Wellbeing Boards and Local Economic Partnerships, where the lines of influence and accountability are blurred and unclear to the public. For example, the Greater Manchester Mayor will have some responsibility for health and social care matters: how will the Mayor's decisions intersect with those of existing (unelected) commissioners and providers in the healthcare system, and how will citizens know who is responsible for what? In the Sheffield City Region it seems that there will be a representative of the Homes and Communities Agency sitting on the Leaders' Board to make decisions on housing investment in Sheffield: will Sheffield residents be able to hold this individual to account for their work on this body, or will their accountability be purely upwards to the HCA and DCLG? If the latter, will they be able to exercise a veto over the other members of the Board, or will a majority vote apply?

## **2. Leadership and accountability under devolved arrangements**

Governance where substantial power and resources are devolved to local areas, to be generated, spent and organised according to the decisions of a locally accountable administration whether under an elected Mayor or Board of leaders, needs to be capable of:

- Clear and effective decision-making to give the citizens confidence in the effectiveness of the administration's ability to deliver on their public commitments;
- Clarity about lines of responsibility and accountability for the different levels of decision-making ie what is determined at the Combined Authority level, what remains with the councils and what remains with other public services;
- A unified and streamlined system of governance to avoid duplication of resources and /or the potential for responsibility or accountability to be denied or confused between one part of the system and another;

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- Robust internal challenge to give government confidence in this new model of delivery and decision-making.

The [Agreement between Greater Manchester's leaders and the Government](#) states clearly that:

*“Strengthened governance is an essential pre-requisite to any further devolution of powers to any city region”* and also that:

*“a scrutiny function would be necessary in order to hold the Mayor and the GMCA to account by examining the effectiveness of their policies, decisions and actions.”*

However, it does not spell out in any detail what is meant by this, other than referring to the direct accountability of the Greater Manchester Mayor to the electorate and the continuation of existing GM Scrutiny Pool arrangements.

Colleagues in Greater Manchester feel that the Scrutiny Pool has provided a valuable policy development, consultative and challenge role as the Greater Manchester Combined Authority has developed. We are not aware of similarly well-developed pooled scrutiny arrangements (other than for health scrutiny) in other areas, although we know that Sheffield City Region have recently agreed to set up an Overview and Scrutiny Committee for the Combined Authority. We believe that in any case this kind of relatively light-touch arrangement (the Sheffield CA OSC is proposed to meet four times a year) will not provide sufficiently robust or in-depth scrutiny and challenge to new, powerful, entities like the proposed Greater Manchester Mayor and Cabinet, or indeed to other forms of collaborative decision-making. If stronger leadership is envisaged through the creation of directly elected Mayors or Leaders' Boards, there must be a parallel strengthening of the scrutiny arrangements at City-wide or County-wide levels to hold leaders and other service commissioners and providers collectively to account.

The key challenge for scrutiny is to balance the strategic aspects of collaboration under the new devolved model (culture and values across the area) and the operational aspects of devolved decision-making (outcomes and citizen experience in local areas). Scrutiny needs to add value to both these aspects. We believe there are two changes to existing scrutiny arrangements that could be considered, each requiring some legislative changes.

## **2.1 A Local Public Accounts Committee**

This would provide:

- a single, focused and high-profile point of scrutiny and accountability to counter-balance the powerful, high-profile Mayor or Leaders' Board; and
- a coordinating mechanism for joint scrutiny of other commissioners and providers, public or private, across the local area.

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Like the national PAC it would be focused on evidence-based challenge to value for money, impact and effectiveness, not questions of policy or political decisions, although through its 'commissioning' role (see below) it could seek assurance as to the evidence-base for policies and strategies. Its primary purpose would be to provide local citizens, parliament and government with the confidence and assurance that the new devolved approach was delivering effectively in that area.

### **Powers**

It is important, given recent criticisms of the variability of local authority scrutiny arrangements (for example in Rotherham and Mid-Staffordshire), that these new Public Accounts Committees are seen as (and operate as) something quite different. As a starting point Local PACs should have three additional powers which existing scrutiny arrangements do not have:

- i. **Power to require persons and papers:** currently O&S committees can only require council officers and executive members to appear before them and provide whatever information they feel they need; some other partners can be asked to provide information on specific issues. The local PAC should be able to require information and attendance from any organisation operating in the area – given the focus on economic growth this should include private sector organisations as well as public, but if there were concerns about the potential burden on business that this might create, it should at least apply to any organisation delivering functions of a public nature or spending public funds in some way.
- ii. **Power to refer:** since this devolved model is new and involves a melding of national and local decision-making, there needs to be a stronger connection between national and local forms of accountability. If the local PAC identifies issues that cannot be addressed at the Combined Authority / City or County region area or council level, it must be able to make recommendations or referrals to national institutions, whether directly to relevant government departments or to Parliament for further investigation at national level, and for there to be a requirement that proper consideration, responses and action will follow. This power to refer has been used by health scrutiny in respect of substantial service reconfiguration proposals and has been felt to have been used effectively and responsibly.
- iii. **Power to enter and view:** members of the local PAC should be able to investigate and visit any institutions delivering public services to see for themselves how those services are being delivered and to talk directly to service users. This power is currently held by local Healthwatch members in respect of health and care institutions but should also be available to local PACs across other services and premises as a way of seeking independent evidence to test the evidence provided by officials. The Healthwatch experience can be drawn upon to ensure appropriate safeguards around interference and safeguarding vulnerable people.

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## Composition

Local PACs should be composed of one member from each council in the area plus a number of independent members. Appointment of the council members should be by secret ballot of all non-executive members across the area. This could either be done within authorities to choose their nominated member of the local PAC or as part of a single election process across all the councils. Appointment of the independent members should be through a public recruitment and confirmation hearings process. A clear role profile and level of skills and expertise should be spelt out for members (elected and independent), and the independent members in particular should be chosen on the basis of specific identified skills gaps eg financial expertise.

There are also options for the appointment of the Chair of this body:

- Chosen by all members of the local PAC themselves from amongst their number once they have been elected or appointed;
- Chosen by all non-executive members across area plus the local PAC independent members by secret ballot from amongst the local PAC members;
- An independent Chair could be appointed through a public recruitment and confirmation hearing process.

Appointments should be for a period of four years to match the term of a Mayor if one has been created, unless the members concerned become ineligible, for example by being appointed or elected to executive positions within their council. Whichever process is chosen for election / appointment, it is vital that it is seen to be transparent and objective, and not influenced by the executive. A recent CfPS survey of local authorities (not yet published) suggested that scrutiny chairs in a significant minority of councils were chosen by the leader which would mean the key objectives of robust independent scrutiny and accountability would be put at risk in the new devolved context.

The role – particularly of Chair of the local PAC – should be remunerated at a level commensurate with the importance of the local PAC as a key element of the new governance arrangements, to ensure it is taken seriously by those who are appointed as members, to enable them to devote sufficient time to the role, and to demonstrate its status and importance in holding any Mayor or Leaders' Board to account. As Jeremy Paxman argued at the Centre for Public Scrutiny's first conference back in 2003: *"There is a perfectly respectable alternative career in public life and it is the job of holding powerful people to account."* The task of chairing the local PAC must be seen as equivalent to holding a leader or cabinet member's post within a council, at least, in terms of public status and recognition, and skills required and effort put in.

Finally, consideration needs to be given to the support and analytical expertise on which the local PAC will be able to call to enable it to carry out the same degree of informed scrutiny as the national PAC in Parliament, which is able to draw on the reports of the National Audit Office. In the context of recent changes to the local public audit regime, it would be appropriate for the

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local PAC to have responsibility for appointing the external auditors for the Combined Authority, and for those auditors in effect to work for the local PAC rather than the CA directly. This would enable them to supply VfM analysis and financial expertise to the local PAC's work, as well as carry out the external audit of the accounts, and would provide an additional level of independence to the audit process.

The local PAC could potentially fulfil the function of Audit Committee for the CA, and remove the need for an additional oversight body. Potentially and as the audit contracts come up for renewal, to assist with the streamlining point above, the local PAC could act as the audit committee for all the local area's constituent councils (and indeed other partners), enabling a joined up audit function and single external audit contract to be let, providing economies of scale and avoiding duplication.

## **2.2 A process for commissioning select-committee style inquiries**

To enable the local PAC to focus specifically on value for money and effectiveness in its work, it would be able to commission separate select-committee style inquiries involving non-executive members from across the local area's councils and partner agencies. These would focus on the impact and effectiveness of strategies and policies of the Mayor / Leaders and other agencies, and would be a powerful tool for gathering evidence – including from citizens and service users – about outcomes and service experience.

This approach would built on the original premise of the Scrutiny Pool in Greater Manchester which was to provide a 'pool' of members who would develop expertise and experience of operating at a Greater Manchester rather than local level, but the local PAC's commissioning role would provide the necessary scrutiny leadership function to direct and oversee this work.

The precise number, remits and composition of these inquiries should be left to the area's local PAC – in consultation with constituent council scrutiny functions – to determine, according to the priorities and issues at the time. It will be important for this element of the arrangements to be properly supported and prioritised by members and officers, to address one of the pressures of time and member availability identified as a challenge with the regional and sub-regional scrutiny arrangements. In a recent piece of CfPS research, one respondent from Greater Manchester reported that: *"There aren't opportunities for multiple meetings, it's all about snapshot reviews, quick one item agendas with quick turnaround, and ensuring that we gather evidence from non-local government people."* One approach could be for different authorities to take the lead on specific inquiries, according to member interest and relevance to their local area, or for support to rotate around the different councils to spread the burden.

If the pattern of implementing new governance arrangements from other Mayoral authorities, for example, is repeated, the experience is that most time and effort (understandably) goes into ensuring the Mayoral decision-making process is properly and effectively supported. Support for scrutiny can be treated as an afterthought. However, because the scale and scope of powers

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being considered for Combined Authorities is potentially larger than anything previously created (other than the Mayor of London, where there is the completely separate London Assembly to provide scrutiny), it is vital that sufficient thought and priority are given to ensuring that the scrutiny arrangements have equal consideration and scope to effectively hold him or her to account. We understand why the option of a directly elected Assembly does not look attractive, but if there is not to be such an option of dedicated, independent scrutiny, it is even more incumbent on those developing the new governance arrangements to ensure the scrutiny function that is created is sufficiently robust and effective.

There are clear commitments in the agreements that are emerging, that existing local authority powers and responsibilities will not be taken by the Mayor, ie councils will still be carrying out their mainstream activities, meaning that these will continue to need scrutiny. However, in pragmatic terms – in the context of budget restraints – it will be vital that where devolution arrangements are agreed, all local authorities in the area covered should review their existing internal scrutiny arrangements to assess what proportion of resource should be allocated to joint scrutiny and what to individual council-level scrutiny. There must be sufficient resource and capacity, in both officer and member time, to properly hold those involved in the Combined Authority to account.

As local collaborations develop, the composition and structures of scrutiny across the areas should be kept under review. There may come a time when a joint scrutiny and governance unit is responsible for supporting all aspects of scrutiny and accountability in the area, where the default approach is joint scrutiny inquiries or even standing joint committees to investigate specific themes or service areas (building on existing Joint Health Overview and Scrutiny Committees for example), and where other aspects of governance such as internal and external audit, policy and performance management, ethical standards and complaints are also managed and supported as a shared service.

### **Powers and Composition**

Members of these scrutiny inquiries should have the same powers to require persons and papers and to enter and view as the local PAC. Potentially it could be less important for them to have a formal referral power up to national level since they will be reporting findings to the local PAC which has commissioned them, and which can then decide whether a referral is required to anyone else.

In terms of composition, it is important that they are able to mirror the increasingly joined-up working of the executive side, and places should be reserved for non-executives from relevant partner bodies. For example, the Greater Manchester Mayor is to be given a role in overseeing the Further Education sector. Any GM overview and scrutiny inquiry considering FE, skills etc issues, should involve governors from the leading FE institutions in the city. Likewise, Joint Health Overview and Scrutiny Committees should have places for Non-Executive Directors or public governors from Health Trusts and lay members of the local CCGs. Given Sheffield CA's

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focus on housing, scrutiny inquiries should include representatives from key tenant scrutiny panels in the city region

To facilitate the work of both the local PAC and these commissioned scrutiny inquiries, it will be necessary to ensure there is shared and fully joined up performance reporting and easy access by members of these bodies to the full range of data, evidence (from a range of sources) and outcomes. A key lesson from governance failures such as Mid-Staffordshire is the need for those charged with scrutiny and oversight roles to have access to easily intelligible data and training to ensure they understand it.

This is about streamlining, joining up and connecting governance to ensure everyone is working to the same collaborative ends. A key element of the role of public sector non-executives is to safeguard the public interest and ensure it is served by their institutions. Therefore, if the executives are working in partnership and using a shared evidence base for their decisions, non-executives must do the same to inform their challenge. Otherwise their public interest focus will only be on part of the picture of responsibilities of their organisations, not the totality. It could also be too easy for executives to play non-executives off against each other and keep them focused on narrow institutional interests at the expense of the wider public interest.

### **3. Accountability and assurance under delegated arrangements**

Governance in an arrangement where responsibility for organisation and delivery of all or most public services is delegated to the Combined Authority with a simplified reporting system up to one single department in Whitehall, needs to be capable of:

- Clear and effective decision-making to give government confidence in delivery;
- Robust internal challenge to give government confidence in the figures reported to them and to give Parliament additional assurance about how monies voted by Parliament are being allocated and to what effect;
- Local scrutiny to keep GMCA 'on mission' ie focused on delivering what's best for the people of GM and not getting distracted by government priorities because these will bring in resources – what used to be described as programming available funds rather than funding desired programmes.

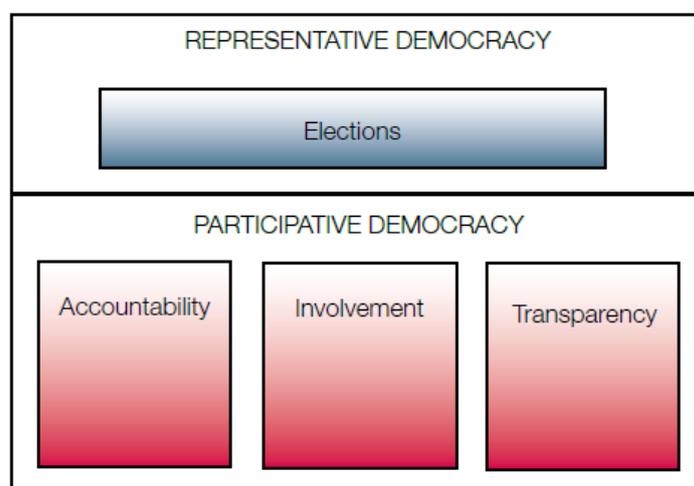
In this arrangement, where decision-making arrangements do not change as radically as under a new Mayoral system as proposed in Manchester, we would argue that delegation of significantly more areas of delivery nonetheless requires a strengthened scrutiny system focused primarily on providing national assurance about delivery. The obvious way of doing this would be to create a local Public Accounts Committee with all the powers, remit and composition discussed above, and to have a scrutiny arrangement like the GM Scrutiny Pool in its current format to carry out a lighter touch version of the themed local scrutiny inquiries envisaged under the fully devolved arrangements.

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However, any such Scrutiny Pool should include a number of non-executives from partner agencies to contribute to stronger joined-up governance and local scrutiny across the city. In this model, the Combined Authority leaders' board becomes in effect the 'company executive board' and the Scrutiny Pool the 'supervisory board' of stakeholders and non-executives seen in corporate governance models on the Continent (as distinct from the UK's tradition of combined boards of executives and non-executives sitting together). This would bring greater clarity of roles and responsibilities between executives and non-executives in the governance of the area, and a stronger and clearer remit and focus to any Scrutiny Pool.

#### 4. Other elements of the new governance framework: transparency and involvement

The paper so far has focused mainly on the crucial accountability and scrutiny aspects of governance. However, as set out in the introduction, it is important to consider other principles that will help create the best possible governance for local areas. CfPS believes that these include transparency and involvement. Devolving more powers to local level as proposed in the Greater Manchester and Sheffield Agreements offers a major opportunity to democratise local public services, but this will not happen purely through the creation of democratically elected Mayors or strengthened local Leaders' Boards. The diagram below from CfPS's ["Accountability Works" research in 2010](#) illustrates the need for a more participative form of democracy to support representative democracy:



In the current crisis of confidence facing democratic government and politics in our country, these new arrangements provide an opportunity to signal a new way of doing business for the future, both transparently and inclusively. This must go beyond the important local government tradition of meeting in public for key decisions – a tradition not fully embraced by other parts of government and the public sector – into Combined Authorities' whole approach to business

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planning and decision-making in the widest sense. Digital technologies offer the opportunity to be transparent about the performance of public services and the development of new policies and to seek input from other stakeholders and the wider public – not just in the traditional consultative sense but taking it a step further towards co-creation of policies and strategies and co-production of better outcomes for and with communities and service-users. Developing the CA's approach to transparent, inclusive decision-making could be an important first inquiry for any local PAC to commission when operating under in shadow form.

One final challenge for the new arrangements to meet is the question of how representative they will be, not least in gender terms: the wholly male photograph of the signatories to the Greater Manchester Agreement was unfortunate, given recent campaigns around avoiding all-male panels of speakers at events. There are now targets for the proportion of women on major UK company boards – [and internationally this has already been adopted in a number of countries, to no apparent ill-effects](#) – and it becomes hard to argue why this might be appropriate for private sector concerns but not those serving the public. One option could be to reserve a certain percentage of places on the local PAC for women candidates or to set a target for higher representation after a certain period. There are similar questions around ethnicity and although the government have recently [stepped back from requiring 20% ethnic minority membership of company boards, there is still an expectation that boards' lack of diversity should be addressed](#). Again this could be partially addressed through the way in which local PACs are set up.

## 5. Conclusion

Recent developments around devolution offer a truly exciting opportunity to demonstrate what a more devolved and democratic pattern of decision-making in our historically centralised country could achieve in terms of better outcomes for communities and citizens. It also offers a great opportunity to rethink our approach to scrutiny and accountability, to clarify what we mean by executive and non-executive roles in governance, and to ensure there are clear counter-weights and checks and balances to any powerful new decision-making bodies. The measures outlined in this paper could address some of the concerns expressed about elected Mayors in other contexts, about the dangers of concentrating too much power in the hands of a single individual, and could help local areas tackle the increasingly common criticism that decision-making and the exercise of political power is opaque and somehow suspect in its operation. We would be happy to work up any of the proposals suggested in more detail as the legislation and other measures are taken forward to implement devolution proposals.

CfPS

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Final draft