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Achieving accountability in Public Services

Evidence Review Prepared for the Commission on Public Service Governance and Delivery

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Summary

This review has been prepared for the Commission on Public Service Governance and Delivery. It draws together recent debates and research evidence to address questions that are directly relevant to the Commission's work: (1) How to improve the accountability of public service partnerships? (2) How to improve the effectiveness of regulatory accountability? (3) How to enhance political accountability?

The research evidence points to four principal conclusions:

- 1. Achieving effective accountability in partnership settings is difficult because of the complexity and ambiguity of their governance arrangements.
- 2. Regulators in Wales are working hard to support improvement in public services but tend to focus on process rather than outcomes and do not generate enough of the kinds of data that engage public involvement.
- 3. Local authorities have struggled to conduct joint scrutiny because of a lack of capacity and ambiguity about roles and responsibilities.
- 4. Welsh public service organizations do not have a sufficiently strong culture of openness and accountability.

These findings have important implications. They demonstrate that:

- It is important to ensure that accountability mechanisms are built into partnership arrangements from the outset. They need to enable effective:
 - Internal accountability among immediate partner representatives
 - Internal accountability from partner representatives to funding organizations
 - External regulation of the strategic and corporate capacity of the partnership
 - Political scrutiny (by local government or the National Assembly depending on the nature of the partnership) of the impacts of partnership expenditure and strategy on local public services and wider policy outcomes.
- Regulators need to do more to engage the public in evaluating public services.
- To be effective, collaborative scrutiny requires more resources and there needs to be a change of political culture. Welsh public services, at all levels, should welcome challenge and scrutiny as a means of enabling learning and performance improvement.



Introduction

The last thirty years many countries have experienced a proliferation of public service accountability structures and mechanisms. This is the result of:

- New Public Management reforms of the 1980s and 1990s that were accompanied by an 'audit explosion' (Power, 1997) with numerous inspection regimes created to provide reassurance about the quality of public services and management and leadership of public organizations.
- In response to a series of 'democratic deficits', governments have introduced new forms of political accountability, such as local government overview and scrutiny, in an attempt to ensure that political and managerial decision-makers are held to account by local representatives and their communities.
- The emergence of more participatory forms of governance and accountability, principally through engagement with partner organizations but also with the wider public via consultation processes and other mechanisms.

This search for better ways to hold public services to account has resulted in an increasingly dense web of accountability arrangements, yet questions remain over the effectiveness of the public service accountability system as a whole. There are particular concerns about:

- The effectiveness of collaborative governance. Partnerships, it is argued, provide for better public services for citizens, but few observers are prepared to argue that current models offer sufficient accountability.
- The effectiveness of regulatory accountability has been challenged because of its predominant focus on process, rather than service outcomes.
- The impact of political scrutiny mechanisms, such as local overview and scrutiny, is variable and highly dependent on resources and capacity and also positive engagement from those subject to scrutiny.

This note reviews the research evidence on these issues and current practice in Wales in order to identify ways in which accountability might be improved. It:

- Provides an overview of recent debates on the concept of accountability.
- Reviews the evidence on partnership, regulatory and political accountability, drawing on the Welsh context where possible.



• Concludes by providing suggestions for the future development of public service accountability in Wales.

What is Accountability?

Accountability is a concept often discussed but rarely consistently clarified and defined. Described by Mulgan (2000: 555) as 'ever-expanding, chameleon-like and complex', accountability began as a term to describe being called to account for one's actions and has since been expanded to cover a range of activities, relationships and behaviours.

Understanding and evaluating accountability systems is a complex business as it is argued that we must firstly be clear about what we are accountable *for* before we can determine who we are accountable *to* (Bardach and Lesser, 1996). Bovens (2008) argues for clarity of purpose in terms of accountability as without this it will be impossible for us to judge whether it is ever at risk. He advocates three functions of accountability which are summarised in Figure 1 (see Appendix). In doing so, in addition to emphasising *democratic* and *constitutional* purposes for accountability, he places particular emphasis on the need for accountability to be viewed as a *learning and improvement* process for public service organizations. Further, Bovens argues that whilst the purposes might differ, similar processes such as informing, debating and sanctioning, can underpin each. A good test for a public service accountability system might be whether it can deliver against these three perspectives.

In subsequent work, Bovens (2010: 946) goes on to distinguish between two senses of accountability:

- On the one hand, being accountable can be seen as a virtue due to the 'strong positive connotations' associated with accountability which imply fair and equitable governance from the state. In this way accountability is a 'golden concept no-one can be against' (Bovens, 2008:225). As a virtue, accountability is reassuring but subject to wide interpretation and therefore further understood by focusing on the attitudes and behaviours of public service agents and actors.
- On the other hand, accountability has also been conceived of 'in a narrower, descriptive sense as a social *mechanism*, as an institutional relation or arrangement in which an agent can be held to account by another agent or institution'. In this context, accountability is understood quite differently through research which analyses the processes and structures through which key actors and organizations are held to account.



Considine (2002: 21) defines accountability in a more traditional sense as the 'legal obligation to respect the legitimate interests of others affected by decisions, programs and interventions'. In doing so, public organizations must provide a duty of care, information on expenditure and be subject to legislators in the exercise of their authority. However, he is at pains to emphasise that contemporary developments in public service organization and delivery (typically the greater involvement of private sector and other partners) make it more difficult than ever to put this definition into practice. Consequently, similarly to Bovens, he argues that predominant vertical forms of accountability, characterised by formal lines and organizational structures, should now be complemented with new horizontal dimensions which place more emphasis on agency and allow accountability routines and conventions to become embedded within an overall 'culture of responsibility' (2002: 23). In other words, accountability should now be seen not only in terms of a formal system of structures and rules, but also as a complex cultural and social process (Newman, 2004: 29). Bearing these arguments on accountability in mind, we now proceed to review evidence on partnership, regulatory and political accountability.

Partnership accountability

The development of collaborative and partnership governance has prompted considerable debate due to the challenge it presents to traditional interpretations and lines of accountability. For practitioners, 'working across organizational boundaries brings complexity and ambiguity that can generate confusion and weaken accountability' (Audit Commission, 2005: 2). Within the academic literature, there is a recognition that the development of network governance will result in a shift in our understanding of accountability by presenting a particular challenge to democratic forms of accountability (Newman, 2004:24; Papadopoulos, 2010). As Considine (2002: 22) describes, 'in the new world of enterprising government, the public official is expected to both honour his/her official mandate and to move freely outside the hierarchical constraints of government in search of collaborative and quasi-market relationships with contractors, competitors and co-producers'.

With no clear link to an electoral base and a lack of clearly identified principals and agents, there is a fear that accountability will disappear within the context of hybrid governance (Acar et al. 2006; Backstrand, 2006; Bovens, 2008). For example, Fimreite and Laegreid, reporting from Norway, find that 'there are less clear lines of accountability for decision-making and service delivery in partnership and hence also in the new welfare administration' (2009: 294).



Whilst there is widespread agreement that partnership governance presents accountability challenges, few have offered clear solutions to these accountability problems. After all, as Newman argues, 'the implications are that it may not be possible to find evidence of a coherent ethos of office appropriate to network governance' (2004; 20). There is a general consensus that accountability must evolve but how and in what way is less clear.

Considine offers a now quite famous re-interpretation of accountability as 'the appropriate exercise of navigational competence...the proper use of authority to range freely across a multi-relationship terrain in search of the most advantageous path to success' (2002: 22). In explaining further how this might work, he suggests the incorporation of new horizontal dimensions of accountability which centre on the public service agent, rather than organizational structures. He terms this 'reflexive accountability' and argues that if collaborative working implies a shared mandate then this needs to be underpinned by a 'cultural framework of obligations' which he defines as ' a willingness to regard other actors as sharing in a wider agency right or responsibility for a particular service or group of services' (2002: 30).

Others argue that the answer to securing accountability in partnerships is the clarification of key relationships (Forrer et al. 2010). However, whilst this is clearly important, there is a growing consensus that 'plural forms of accountability' are required (Backstrand, 2006). Bardach and Lesser elaborate these forms in their study of interagency collaborations, contending that collaborative governance can be more accountable through a combination of the following:

- Partnership accountability (constructive engagement with professional and bureaucratic peers through the collaboration itself);
- Self-governing community of accountability (partner organizations hold collectivity to account and exercise sanctions such as removal of funds); and
- Targeted accountability (creation of new local governance body which scrutinises the partnership).

However, the research shows that new systems can produce new problems:

• There is evidence that managers working in multiple accountability arrangements often prioritise - 'trading-off' one type of accountability for another. Some have suggested that this is especially likely in partnership governance where close proximity to peers might lead to prioritisation of accountability relationships with partners, rather than those with democratic principals, such as elected members or



the public, who might in any case be struggling to access the 'black box' of network governance (Papadopoulos, 2010: 1039).

• Lord and Pollak (2010) raise a series of questions around the motivations and actions of stakeholder partners and their 'representativeness'.

Whilst active personal and individual responsibility - so-called 'everyday accountability' of partner agents - is to be encouraged as the foundation of collective accountability, this is viewed as insufficient in itself and there is a clear view that some external scrutiny is still warranted (Newman, 2004; Sullivan, 2002). Within this context, Sullivan (2002) argues that local government should be seen as a role model, partner and community leader, due to its capacity to fulfil a series of fundamental conditions including: policy coordination, democratic representation, conduct and standards, and participation. Others advocate that the role of independent regulators as essential in supplementing these mechanisms.

Regulatory accountability

External performance assessments play a crucial role within the current web of public service accountability arrangements and within the management of public services. What Power (1997) called the 'audit explosion' has been a transnational phenomenon (Pollitt et al., 1999), and in the last two decades most European countries have introduced performance assessments at the municipal level (Jeanrenaud and Martin 2005).

The UK Government is somewhat unusual in having imposed top down targets, indicators and inspections on local services (Hood 2007) and until recently, the Welsh Government eschewed the explicit comparisons between councils, such as star ratings and league tables, favoured by the Blair/Brown governments in England. However, the recent publication of school banding hints at a toughening of its stance in response to a growing emphasis on 'delivery'.

Historically, audit and inspection have been designed to provide assurance that local authorities manage their finances properly and services meet minimum standards. Over the last decade though, they have increasingly been seen as a means of supporting or 'driving' improvement. As a result, regulators are no longer seen simply as watchdogs whose job is to alert the public (and/or ministers) to unsafe or underperforming services. They are now expected to proffer advice and disseminate good practice.

The drive to improve performance through assessment has been strongly influenced by the theory of responsive regulation. Advocates argue that the nature of regulation should depend upon the degree of trustworthiness of the regulatee whose performance is being



assessed. If regulatees can be relied upon to meet desired standards, then self-regulation is argued to be the best approach. However, if there is doubt about the regulatee's ability and/or willingness to perform to the required level, then alternative 'regulatory strategies' need to be used. According to Ayres and Braithwaite (1992: 25) 'The trick of successful regulation is to establish a synergy between punishment and persuasion', a claim which they illustrate using the concept of 'enforcement pyramids' which involve hierarchies of sanctions and regulatory strategies. Thus, as Figure 2 (see Appendix) demonstrates, regulation moves from self-regulation at the base of the pyramid to 'command regulation' at the apex where an external regulator dictates both the standards and the processes by which they are to be achieved. Between these two extremes, there are a range of options including for example co-regulation where a group of individuals or organisations (rather than an external regulator) exercises control over its members' behaviour and/or performance (Baldwin and Cave, 1999).

Responsive regulation has influenced policy makers as the concept of 'proportionate' audit and inspection gained currency in the New Labour Government's approach to the regulation of public services as it was predicated on the related idea of 'earned autonomy'. A comparison of local government performance improvement regimes in England, Scotland and Wales shows marked variations in approach. Comprehensive Performance Assessment (CPA) in England was based on the premise that councils needed a powerful external prompt in order to identify and address weaknesses. It therefore provided annual assessments based on a standard scoring system which enabled the Audit Commission to name and shame 'poor performers'.

The Scottish Government and Audit Scotland pursued a more consensual approach. Best Value Audits (BVAs) were attuned to local context and priorities; councils were only assessed once every three years; and there were no overall performance score (Downe et al. 2008). As a result, it was difficult for ministers and voters to make explicit comparisons between local authorities.

In contrast, policy makers in Wales argued that improvement could not be forced from the centre; it had to come from within councils. The Wales Programme for Improvement (WPI) was tailored to local priorities and each authority's particular improvement journey. Local authorities undertook self-assessments and agreed improvement and regulatory plans with the Audit Commission.

The local government performance improvement regime in Wales has undergone a series of changes over time with new guidance issued in 2005 introducing greater flexibility concerning the nature and timing of risk assessments. The number of statutory performance



indicators was also slimmed down. The 2009 Local Government Measure signalled more fundamental changes which linked performance assessment explicitly to community strategies and required councils to publish performance data. Rather than focussing on risk, the post-measure WPI was concerned with securing continuous improvement.

The secrecy surrounding the assessments made under the WPI had made it difficult for minsters to identify and address poor performance. The new framework aimed to provide a more effective early warning system since the Wales Audit Office now publishes annual analyses of whether an authority has achieved planned improvements and an assessment of its capacity to achieve future improvement. Interestingly, just as policy makers in Wales were embracing this more muscular approach to performance assessment, the Coalition Government in London was busily dismantling the frameworks put in place by its predecessors in favour of a 'sector led' approach which was reminiscent of the framework previously tried by the Welsh.

Like most regulatory regimes, the post-2009 performance management arrangements applying to Welsh local government therefore combine elements of self-regulation and external regulation. The external requirement that councils publish performance information places it slightly higher up the 'enforcement pyramid' than the pre-2009 arrangements. However, councils still have some discretion over the regulatory activities as they determine the priorities for their local areas, although the WAO also has a role – it has for example argued that some councils have too many priorities. Authorities also gather evidence about their own performance albeit within a framework of strategic performance indicators set by the Welsh Government and the WAO visits authorities to gather and check the data. Councils are responsible for implementing actions needed to secure improvement, but the WAO can make recommendations about what it believes they need to do and check on whether they have acted on its reports.

Research in Wales (Martin et al. 2013) suggests that stakeholders viewed the post-2009 WPI as an improvement on the previous version. Councils and the WLGA welcomed the emphasis on local priorities and proportionality supported the attempt to coordinate the WAO's work with the activities of the other inspectorates. Many believed, however, that the measure did not go far enough in doing this and that there was a need for what one called a 'pan public service performance improvement framework'.

The research by Martin et al. (2013) highlights three important sets of questions which they argue policy makers in Wales need to consider as a matter of urgency:



- Are those aspects of performance that are currently being monitored and the basis on which local authorities are being held to account the right ones? They argue that current assessments are largely concerned with capacity and processes rather than outcomes. This, they conclude, has serious consequences because there have been a number of examples of councils – in Wales and other parts of the UK – whose management processes have been judged to be satisfactory by inspectors and auditors but serious problems with performance have subsequently come to light. More attention needs to be given to the kinds of outcomes that councils are achieving for their citizens.
- Is there scope for greater differentiation in the way in which councils are regulated? In theory, there is a degree of proportionality in the current arrangements. However, Martin et al. argue that there is a case for much more explicit use of different kinds of enforcement strategies in different councils.
- How useful is the evidence which is currently being generated through the regulatory process? Martin et al. conclude that the volume of data produced makes it is very difficult for members of the public to judge how well their council is performing. While WAO reports provide a clearer set of messages for councils, civil servants and ministers than in the past, their communications remain largely un-penetrable to many members of the public. It is difficult to conceive how regulatory accountability processes might aid citizens in holding their authority to account in the absence of clear, published, independently audited comparative data.

Political accountability

The concept of 'political accountability' includes notions of representation and accountability. In this note we focus on one of the most recent innovations in democratic accountability – the development of overview and scrutiny in local government.

Performing the role of overview and scrutiny effectively has been a challenging experience for local governments across the UK. Research suggests that the division between executive and non-executive responsibilities has proved relatively successful in terms of providing clear and transparent political leadership (Stoker et al. 2007). However, evidence on the effectiveness of overview and scrutiny continues to be mixed, and concerns have been expressed about the ability of overview and scrutiny to hold executives to account, a lack of resources and officer capacity and some councillors' unwillingness to embrace the role (Ashworth and Snape, 2004; Coleman and Glendinning 2004). New responsibilities in the



areas of health, crime and disorder and the scrutiny of partnerships and the wider public sector have presented further challenges.

Overall, whilst it is possible to point to many good practice examples, concerns remain about the overall effectiveness of the overview and scrutiny function. The pool of academic evidence on the overview and scrutiny function remains small but consistent in its suggestion that the impact of scrutiny is mixed. For example, research suggests that local authority officers and members continue to question the value of scrutiny (Ashworth and Skelcher, 2005; 2007). Further, the predominant model of overview and scrutiny seems to be the 'Management Tool' – a system where scrutiny adopts an executive-driven agenda and is encouraged to review policy rather than provide internal challenge (Stoker et al., 2004). Consequently, evaluations have tended to report gloomy overall conclusions such as: 'there is still room for improvement (for scrutiny) in terms of holding the executive to account' (Ashworth and Skelcher, 2007) and 'this (scrutiny) role has taken some time to embed and that scrutiny arrangements are not as robust as executive arrangements' (Stoker et al., 2007:9).

More specifically, studies have sought to evaluate the scrutiny function through an analysis of progress against the four main roles originally identified by government: policy development and review, holding the executive to account, performance management and improvement, and external scrutiny.

Evidence here demonstrates that trying to perform multiple roles simultaneously has not been straight-forward. Whilst there has been some impressive work by scrutiny in the area of policy development and review, there is less evidence to suggest that scrutiny has been successful in fulfilling its key accountability role: holding local executives to account. Further there is a continued debate around scrutiny's role in the improvement agenda.

Some argue that there is a lack of a clear distinction between the role of scrutiny and regulation and a need for a rapprochement between the two (see Cardiff County Council's recent Scrutiny Development Fund project-), whilst evidence suggests scrutiny of performance is not always systematic or sufficiently challenging. This was especially highlighted in Wales where it was felt that overview and scrutiny committees could make more use of Wales Audit Office reports and risk assessments (CRG, 2007).

The external scrutiny agenda (conducting scrutiny of organizations external to the local authority) is now further advanced across the UK and there are many examples of external scrutiny being successful and making an impact. However, there is also quite a degree of confusion and trepidation about how far local government overview and scrutiny can go in

holding other organisations to account. In Wales, the recent LG measure has provided a clear impetus for external scrutiny, principally through the identification of 'designated persons' which might be subject to scrutiny. Overall though, for most authorities, external scrutiny remains a limited activity with concerns being expressed about whether scrutinising external agencies could have a negative impact on partnership working arrangements.

In recent years, local government overview and scrutiny teams have been encouraged to extend scrutiny in two further directions. Firstly, there has been pressure to ensure that the wider public and service users are engaged in scrutiny processes to ensure that overview and scrutiny remains citizen-centred. There has been a particular focus in Wales due to the Beecham Review and the Welsh Government's subsequent emphasis on placing 'citizens at the centre'. Evidence suggests that scrutiny teams in Welsh local government have been working hard in their attempt to rise to this challenge but are finding it difficult to make progress in light of shrinking resources (Downe and Ashworth, 2013).

Secondly, in light of the earlier discussion on partnership accountability, it is unsurprising that joint working between local authority overview and scrutiny teams has been widely proposed as the ideal solution to this accountability problem, both in England (see for example, joint scrutiny of LEPs (Local Economic Partnerships)) and in Wales. A recent study conducted for the Welsh Government focused on identifying the extent and nature of collaborative scrutiny in Wales, whilst also determining the factors that facilitate or impede joint-working between authorities on scrutiny (Downe and Ashworth, 2013).

Overall, this research indicates that collaborative scrutiny is slowly developing in Wales. Several case studies identified by the research were prompted by the Welsh Government's Scrutiny Development Fund. One further important example which developed independently of the SDF is the long-term scrutiny of Prosiect Gwyrdd – a partnership between Cardiff, Caerphilly, Newport, Monmouthshire and the Vale of Glamorgan. In these particular cases, the consensus view indicated that having a single authority occupying a lead or coordinating role within the collaboration was essential to its success. In addition, whilst overall there were few cases of collaborative scrutiny which involved the instigation of formal joint scrutiny arrangements and inquiries, the research did reveal a high level of interaction, knowledge exchange, team-working and peer support between scrutiny teams across Wales, facilitated by regional network arrangements. In addition to identifying examples of collaborative scrutiny, the research also identified a range of barriers that currently act as impediments to further joint-working and suggested that collaborative scrutiny would be more feasible if a series of conditions were put in place (see Figure 3 below). One clear difficulty surfaced during the research. The lack of an equivalent demos or political constituency (e.g. a

regional public or electorate) is highly likely to limit the successful operation of a political or democratic accountability mechanism operating across boundaries or a region.

Whilst it is possible to identify some excellent practice in local government overview and scrutiny, the research evidence points to an overall conclusion that scrutiny across the UK continues to have difficulties in achieving its full potential. There are a number of explanations for this and therefore potential mechanisms for securing improvement and reducing the variability in scrutiny performance.

Coleman and Glendenning argue that effective scrutiny – whether conducted internally or externally – will depend on a series of factors: independence, access to information, appropriate support and training and resources (2004: 32). In recent years, local government overview and scrutiny teams have responded to the pressures placed upon them and scrutiny has improved as a result. However, responsibility for effective scrutiny should not lie solely with local government overview and scrutiny members will still struggle to achieve any impact if they are scrutinising unresponsive local executives. So, in addition to the factors listed by Coleman and Glendenning, successive studies in Wales have suggested an urgent need to develop an open culture, both within and beyond local authorities, which is more receptive to internal questioning, challenge and requests for information via scrutiny.

Conclusions

The research highlights four conclusions which are directly relevant to the work of the Commission on Public Service Governance and Delivery.

- 1. The increasing importance of partnership working presents a challenge to traditional accountability mechanisms. If partnerships and networks remain as loosely-knit, strategic discussion forums, then it maybe that some slight tweaking of the existing accountability system is all that is required. However, if there is widespread integration of budgets, facilities and delivery responsibilities, then a more significant adjustment to current arrangements will be needed. The research evidence suggests that this will need to allow for plural forms of accountability which include horizontal and vertical mechanisms, and internal mechanisms will have to be supplemented with external mechanisms, in the form of regulatory and political accountability.
- 2. It is clear that regulators in Wales have become more responsive to regulatees, but they have failed to engage the public as potential assessors of public service



performance, partly because their activities focus mainly on evaluating structures and processes, rather than service outcomes and partly because of the kinds of data they produce.

- There are very few examples of effective collaborative scrutiny and public service organizations will need to devote more resource and capacity in order to encourage its development.
- 4. Finally, successive reports and reviews have attempted to encourage and instil a respect for scrutiny and accountability within Welsh public service. However, the research evidence suggests that Welsh public service organizations often fail to demonstrate sufficient openness and commitment to accountability. There is an urgent need to develop a 'culture of responsibility' where accountability is recognised as both a virtue and a hallmark of effective public services.

These findings have some important implications:

- It is important to ensure that accountability mechanisms are built into partnership arrangements from the outset. These need to enable effective:
 - Internal accountability among immediate partner representatives
 - Internal accountability from partner representatives to funding organizations
 - External regulation of the strategic and corporate capacity of the partnership (conducted by the appropriate regulator)
 - Political scrutiny (by local government or the National Assembly depending on the nature of the partnership) of the impacts of partnership expenditure and strategy on local public services and wider policy outcomes.
- Regulators need to do more to engage the public in evaluating public services.
- To be effective, collaborative scrutiny will require more resources. However, there also needs to be a change of political culture. Welsh public services, at all levels, need to welcome challenge and scrutiny as a means of enabling learning and performance improvement, rather than seeing them as a bureaucratic process or 'hoop to be jumped through'.



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Appendix

Figure 1: Bovens (2008) Three functions of accountability

The democratic perspective: being responsive to citizens and their representatives by providing a democratic means to monitor and control government conduct

The constitutional perspective: preventing corruption, monopolies and abuse of power

The cybernetic perspective: enhancing governmental learning capabilities and the effectiveness of public administration



Figure 2: Sanctions pyramid





Figure 3: Conditions for effective collaborative scrutiny (Welsh Government, 2013)

- A clearer specification of the accountability role that joint local scrutiny could perform in scrutinising collaborations and partnerships (versus inspectorates and regulators), and in particular further thought as to how elected members best contribute to this role
- The presentation of a clear rationale for joint/regional service delivery and regional scrutiny to elected members
- Further clarity on the governance and service delivery configurations of Welsh public services
- A digest of case studies and potential blueprints for scrutiny officers to employ
- Sufficient resource and capacity to deliver collaborative scrutiny
- Guidance to partnerships, consortia and other collaborations and a strong reminder to local authority leaders, executive members and chief executives - on the importance of scrutiny
- Service and policy-specific training for members and officers.

