

Leading the fire sector

Oversight of fire and rescue
service performance

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Foreword

As chair of the Local Government Association's (LGA) Fire Services Management Committee, I am pleased to introduce this guide on the oversight of fire and rescue service performance. The LGA has produced this guide with fire and rescue authority (FRA) members in mind as its primary audience, but I hope it will also be of use to senior officers and others who have an interest in how fire and rescue services are governed by locally-elected representatives.

The role of FRAs in ensuring that the fire and rescue services, for which they are responsible, are performing well has always been important. Historically, such oversight was relatively straightforward and involved securing assurance that a fairly narrow range of core statutory services were meeting nationally prescribed standards. However, as the sector has evolved, the landscape in which elected members exercise their governance role has become increasingly complex and challenging.

The policy framework within which we now operate is summarised in the Fire and Rescue National Framework for England.¹ The framework sets out high-level details of the Government's expectations of FRAs, with responsibility for meeting these expectations falling to the authorities themselves. Within this context, members rely heavily on advice from senior officer colleagues in setting a policy agenda that is tailored to the needs of local communities. They then depend on the professional expertise of officers to deliver the policy agenda efficiently and effectively and to report back on progress.

Whilst the working relationship between FRA members and officers should be characterised by openness, honesty, mutual respect and high

levels of trust, it is also important for elected members to provide constructive challenge. A 'critical friendship' is an essential ingredient in ensuring that the needs of communities are met and public money is being spent wisely. The National Framework includes a specific requirement for FRAs to hold their chief fire officers to account.

Outputs from the first cycle of independent inspections by Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) have painted a generally positive but somewhat mixed picture in terms of fire and rescue service performance. Whilst many examples of good practice have been highlighted, important areas for improvement have also been identified – particularly in relation to fire safety enforcement, variation in service standards, and issues associated with culture, diversity and inclusion. These inspection findings have served to underline the importance of FRAs operating effective governance and scrutiny arrangements to ensure that FRSs perform well, but also that they are 'inspection-ready' and make certain that any inspection findings are responded to in an effective and timely fashion. This guide has been prepared as a resource to assist FRA members in this endeavour and will be supported by a programme of training offered by the LGA.

Whether you are an experienced FRA member or someone new to the role, I very much hope you find the guide both interesting and informative, and thank you for taking the time to read it.

Councillor Ian Stephens

Chair, LGA Fire Services Management Committee

¹ www.gov.uk/government/publications/fire-and-rescue-national-framework-for-england--2

Purpose and scope of the guide

The purpose of this guide is to provide FRA members with information on governance arrangements in the fire and rescue sector, and practical advice on how they can apply the principles of good governance – with a particular focus on effective performance oversight and scrutiny.

The scope of the document is limited to the role of elected members who have direct responsibility for performance oversight and holding officers to account, ie:

- combined fire authority members
- cabinet members with portfolio responsibility for the fire and rescue service in county councils and unitary authorities
- metropolitan fire authority members
- police, fire and crime commissioners
- mayors with governance responsibility for fire and rescue services.

The guide does not address the role of those on bodies responsible for holding elected representatives to account in the sector, such as police, fire and crime panels, and overview and scrutiny committees in county council and unitary authority governance structures.

Introduction

FRA members operate in a system of representative democracy. That being the case, on behalf of the electorate, members are responsible for ensuring that the fire and rescue services (FRSs) oversee and deliver excellent services and achieve other important objectives as efficiently and effectively as possible. In headline terms, this involves them:

- setting a high-level policy agenda for what the FRS should do and the outcomes it should achieve
- setting a budget to fund delivery of the policy agenda
- securing assurance that the budget is being spent wisely on delivering the policy agenda set by the authority.

In order to achieve the above, FRA members rely heavily on the professional experience and expertise of their senior officer colleagues to:

- provide advice, so that FRA members are able to take strategic policy decisions from a well-informed position
- implement the decisions that members have taken in an efficient, effective and timely manner
- report progress on implementation of the decisions in question, and the extent to which they are achieving their intended objectives.

The relationship between FRA members – who hold legal responsibility for the discharge of statutory duties – and senior officers in the system described above is centrally important. It should operate as a professional partnership characterised by openness, honesty, mutual respect

and high levels of trust. However, it is equally important that the relationship also includes a degree of constructive challenge. Elected representatives have a crucial role in operating as ‘critical friends’ to secure assurance regarding the advice and information with which they are being provided by their officer colleagues, as well as strategic decisions being taken by them. In this regard, there is an important distinction between assurance and reassurance. Within the context of performance oversight, the two terms can be defined in lay-person’s terms as follows:

Reassurance: when someone you trust tells you that all is well.

Assurance: when someone you trust tells you what’s happening; shows you the evidence; encourages questions and constructive challenge; and allows you to judge for yourself if everything’s fine.

In order to secure assurance, it is necessary for effective scrutiny to be an integral component of FRA governance arrangements. This document has been prepared to assist elected members to understand how to ensure that such governance arrangements are in place. It sets out details of the legislative framework within which FRAs operate, before outlining the different FRA governance models that can be found in England and the principles of good governance they should all apply.

The document then goes on to explain how effective scrutiny should be integrated with those governance principles and concludes by providing practical advice on how such scrutiny can be exercised to secure the assurance that FRA members require.

In doing so, it concentrates particularly on approaches for applying scrutiny to the recently introduced HMICFRS inspection process and also provides some specific examples of good practice.

For those who wish to find out more about governance and scrutiny in the public sector generally, there is a list of publications in the 'Further reading' section of this guide.

Legislative framework

Like all public sector bodies FRAs, and the fire and rescue services for which they are responsible, are required to operate in accordance with a wide range of legislation. Much of the legislation in question applies across all public services, but there are some aspects of the legislative landscape that are particularly relevant to the fire and rescue service. This section of the guide provides an overview of each, concentrating particularly on the provisions that are most likely to be of interest to FRA members.

The Fire and Rescue Services Act 2004 (explanatory notes to the Act)²

This is the main piece of legislation under which the fire and rescue services operate. The Act provides the legal basis for establishing FRAs, the political bodies responsible for overseeing the work of fire and rescue services and employing staff to undertake this work. It also sets out details of the statutory community safety-orientated duties that fire authorities have. These are referred to as core functions and can be summarised as follows:

- promoting fire safety
- extinguishing fires, and protecting life and property when fires do occur
- minimising damage to property arising from firefighting operations
- rescuing people involved in road traffic collisions

² www.legislation.gov.uk/ukpga/2004/21/contents

- dealing with other types of emergencies, as specified by the Secretary of State in Statutory Instruments (Orders). Currently, a single Order³ has been issued, requiring fire authorities to make provision to attend the following types of incident:
 - chemical, biological, radiological or nuclear emergencies
 - emergencies involving the collapse of a building or other structure
 - emergencies involving trains, trams or aircraft.
- ensuring the provision of the resources necessary to meet all normal requirements (the Act does not define what constitutes 'normal'. This is a matter for local determination by fire authorities)
- ensuring necessary training for firefighters
- ensuring that (999) calls for assistance can be dealt with effectively
- obtaining information needed to respond safely and effectively to emergencies.

As well as the duties outlined above, the Act provides FRAs with powers to exercise their discretion in providing other services. These can be other emergency services, such as responding to flooding, or co-responding to life-threatening medical emergencies alongside ambulance colleagues. However, FRAs also have the flexibility to use their 'equipment or personnel for any purpose (they believe) appropriate and wherever (they so choose).' This power has enabled FRAs to become increasingly creative in the way they use resources – as well as the powerfully-positive brand of the fire and rescue service – to contribute to a community

³ www.legislation.gov.uk/ukSI/2007/735/article/1/made

safety, health and wellbeing agenda that goes well beyond its traditional core statutory role. Youth engagement schemes, and those aimed at enabling older people to live safely and independently in their own homes, are two examples of initiatives that have become widespread through the use of this power.

Beyond legislating for the duties and powers of FRAs, the 2004 Act also introduced The Fire and Rescue National Framework for England.⁴ The National Framework sets out the Government's expectations and requirements for FRAs in England. The Secretary of State must keep the document under review, and reports to parliament every two years on the extent to which it is being complied with by FRAs.

Whilst there is no absolute legal requirement to adhere to the contents of the Framework, the legislation states that FRAs 'must have regard' to it when carrying out their functions. In practice, this means that a compelling case would need to be made to justify any departure from the requirements laid out in the Framework.

The five priorities specified for FRAs in the current version of the National Framework are as follows:

- to make appropriate provision for fire prevention and protection activities and response to fire and rescue related incidents
- to identify and assess the full range of foreseeable fire and rescue related risks their areas face
- to collaborate with emergency services and other local and national partners to increase efficiency and effectiveness of the services they provide
- to be accountable to communities for the service they provide
- to develop and maintain a workforce that is professional, resilient, skilled, flexible and diverse.

There are three mechanisms incorporated in the National Framework that are central to the process of FRAs addressing these priorities. The first is Integrated Risk Management Planning (IRMP), the second involves the preparation and publication of an annual Statement of Assurance, and the third is effective financial planning. In the case of Police, Fire and Crime Commissioner (PFCC) FRAs, there is an additional requirement to produce a Fire and Rescue Plan.

Integrated risk management planning

Integrated risk management planning is a cyclical process that involves assessing community risk; deciding on steps that need to be taken to manage it efficiently and effectively; implementing the steps in question and then reviewing their impact before commencing the cycle again. Details associated with each element of this process are required to be published by FRAs in an Integrated Risk Management Plan. The term 'integrated' is used to reflect the fact that community risk is managed by balancing service delivery interventions across three disciplines:

- **prevention** – the practice of trying to prevent emergencies from happening in the first place
- **protection** – the practice of ensuring that fire safety standards in buildings are appropriate
- **response** – the practice of minimising the impact of emergencies through well-trained, well-equipped firefighters responding to them quickly and effectively.

Where the IRMP process leads FRAs to contemplate making material changes to prevention, protection and/or response service provision, there is a requirement to undertake a public consultation on options. FRA members must then 'conscientiously consider' consultation responses before deciding on any changes that will be made.

⁴ www.gov.uk/government/publications/fire-and-rescue-national-framework-for-england--2

Statements of Assurance

Statements of Assurance⁵ are produced annually by FRAs, and should only be published after having been subject to the authority's scrutiny arrangements. In accordance with the National Framework, these statements should:

- outline the way in which the authority and its FRS has had regard to the National Framework and its Integrated Risk Management Plan
- provide assurance to members of the public, government and other stakeholders on the adequacy of financial management, governance and operational arrangements
- in the case of PFCC authorities, provide details of how the PFCC has had regard to the Fire and Rescue Plan (see below).

Effective financial planning

FRAs are required to have effective financial management arrangements in place. These must include:

- **A medium-term financial plan** – setting out funding and spending plans for a multi-year period.
- **An efficiency plan** – providing information on how FRAs intend to demonstrate efficiency over a multi-year period. These can be included as an element of the medium-term financial plan.
- **A reserves strategy** – including details of current and future planned financial reserves levels and the basis upon which they have been set. The strategy should make clear which of the reserves have been earmarked for investment through planned expenditure, and which will be held as a contingency to manage the risk of addressing the financial consequences of unplanned events. The reserves strategy should be established as part of the medium-term financial planning process and can be published as a stand-alone document or part of the medium-term financial plan.

⁵ www.gov.uk/government/publications/statements-of-assurance-for-fire-and-rescue-authorities-in-england

Fire and rescue plans

In addition to the above, PFCC FRAs are required to produce fire and rescue service plans. These plans should set out the FRA's strategic vision, priorities and objectives for their fire and rescue service. Fire and rescue plans should then inform Integrated Risk Management Plans which, in turn, outline how the PFCCs community safety priorities will be met.

Although it is not a National Framework requirement for other types of FRA to produce fire and rescue service plans, many do in accordance with good governance practice and frequently refer to them as 'corporate' or 'strategic' plans.

The Regulatory Reform (Fire Safety) Order 2005 (explanatory memorandum)⁶

The Regulatory Reform (Fire Safety) Order 2005 (the 'RRO' or 'FSO') is the legislation under which fire safety standards in almost all buildings are controlled. The primary focus of the RRO is on workplaces, and 'Single Private Dwellings', ie people's homes, are specifically excluded; although the common areas (access corridors, staircases etc) in blocks of flats do fall within the scope of the Order.

The RRO replaced previous legislative fire safety requirements with a 'self-compliant' regime. This is based on the principle that those responsible for the day-to-day management of buildings should also be responsible for ensuring that necessary fire safety arrangements are in place. The 'Responsible Person' is required to undertake a fire risk assessment. They must then use the findings from the assessment to decide on the steps necessary to manage fire risk down to a reasonable level.

FRAs are responsible for enforcing the RRO, and do so by fire safety officers undertaking 'Risk-Based Inspection Programmes'.

⁶ www.legislation.gov.uk/ukxi/2005/1541/contents/made

These involve carrying out audits of fire safety arrangements in buildings that fire officers consider to present the greatest risk.

The Grenfell Tower tragedy has raised fundamental questions about the fitness-for-purpose of the UK fire safety 'system' – including questions around the efficacy of the RRO as a regulatory mechanism. At the time of writing this guide, active consideration is being given to whether the RRO should be amended or replaced to address the lessons from Grenfell associated with fire safety enforcement.

The Policing and Crime Act 2017 (explanatory notes to the Act)⁷

The Policing and Crime Act 2017 sets out a number of provisions that are impacting on the way in which FRSs operate and are governed. The Act introduced a statutory requirement for fire, police and ambulance services to collaborate if it is in the interests of each of their efficiency and effectiveness to do so. However, where a collaboration agreement would negatively impact efficiency, effectiveness or public safety, the duty to enter into it is set aside.

The Policing and Crime Act also established distinct routes by which Police and Crime Commissioners (PCCs) can become directly involved in the governance of FRSs:

1. By making a business case demonstrating that it would be in the interests of economy, efficiency and effectiveness, or public safety, for a PCC to replace an existing fire authority as a 'PCC-Style' fire authority. These 'PCC-Style' authorities can be constituted using either a 'governance model' (where employment responsibility for FRS and police employees remains separate), or a 'single employer model' (where employment responsibility for all employees is combined). Such changes in governance require approval of the

Home Secretary, and lead to PCCs being re-designated as police, fire and crime commissioners. Under such circumstances, the police and crime panels that hold commissioners to account are similarly re-designated as police, fire and crime panels.

2. By PCCs being appointed as voting members of existing FRAs. Such appointments are subject to agreement by FRA members in response to a formal request from a PCC.

The Crime and Disorder Act 1998 (CDA)⁸

Fire and rescue authorities are designated as 'responsible authorities' under the Crime and Disorder Act 1998. This means they are required to work alongside other responsible authorities (police, local authorities, the probation service, and clinical commissioning groups) on Community Safety Partnerships (CSPs). CSP's are defined as 'an alliance of organisations which generate strategies and policies, and implement actions and interventions concerning crime and disorder within their partnership area.' In this capacity, they hold a collective, statutory responsibility for reducing crime and disorder, substance misuse and re-offending in each local authority area.

In exercising their functions under the CDA, responsible authorities must have regard to the police and crime objectives set out in the police and crime plan for the police area which comprises, or includes, that local government area.

7 www.legislation.gov.uk/ukpga/2017/3/contents/enacted

8 www.legislation.gov.uk/ukpga/1998/37/contents

The Civil Contingencies Act 2004 (explanatory notes to the Act)⁹

The Civil Contingencies Act was introduced to establish a coherent framework within which organisations would work together to plan for dealing effectively with major emergencies.

Under the Act, fire and rescue authorities are designated as 'Category 1 responders'. As such, they are members of multi-agency groups known as Local Resilience Forums (LRFs). These LRFs – which cover geographical areas matching the boundaries of police forces – are required to collaborate in undertaking a range of functions:

- assessing the risk of emergencies occurring, and using this risk assessment to compile a Community Risk Register, and inform contingency planning activity
- putting in place emergency plans
- putting in place business continuity management arrangements, to ensure they continue to deliver essential services when responding to, or being affected by, a major emergency
- putting in place arrangements to make information available to the public about civil protection matters, and maintain arrangements to warn, inform and advise the public in the event of an emergency
- sharing information with other local responders to enhance co-ordination
- co-operating with other local responders to facilitate co-ordination and achieve efficiency
- providing advice and assistance to businesses and voluntary organisations about business continuity management (this applies to local authorities only).

⁹ www.legislation.gov.uk/ukpga/2004/36/contents

Funding arrangements

The vast majority of the financial resources available to FRAs are provided by a combination of council tax and funding from central government. Government funding is provided through the local government finance settlement in the form of revenue support grant (a general grant to meet revenue costs) and business rate retention. Other ring-fenced grants are also provided for specific purposes.

Beyond these main sources of funding, FRAs raise funds through charging for some non-emergency services, and a number also generate income from commercial trading activities.

PFCC FRAs receive funding in the same way. In doing so, they are required to establish and maintain a fire fund – mirroring well-established arrangements for PCCs in relation to policing budgets. The intention of this arrangement is to ensure that two separate budget lines for police and fire are operated in order to provide clarity and transparency in funding across the two services.

Governance in the English fire and rescue sector

The purpose of good governance

The International Framework: Good Governance in the Public Sector¹⁰ defines the purpose of governance in the public sector as follows:

- Governance comprises the arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved.

By applying this definition to the fire and rescue sector, good governance will enable FRAs to:

- set a strategic policy agenda that meets the needs of communities and discharges its statutory responsibilities efficiently and effectively
- ensure that the policy agenda in question, ie the defined outcomes, are delivered on time; on budget; and to the required standard.

Fire and rescue authority governance models

All fire and rescue services are overseen by FRAs and there are currently 45 of these bodies in England (see map in Appendix A). Although FRAs share a common responsibility for governance of fire and rescue services, the structures through which they exercise this responsibility vary. The key features of the various governance models are set out below.

Where fire and rescue services share a boundary with a single 'upper tier' council (and a PFCC has not assumed governance responsibility for the FRS), the council is the fire authority. In this scenario, the FRS is an integral part of that council, alongside other services such as social care, education, public health, and highways. There are currently 14 FRAs of this type in England (11 county councils, the unitary authorities in Cornwall and the Isle of Wight, and the Council of the Isles of Scilly).

In non-metropolitan areas where the fire and rescue service's boundary incorporates more than one 'upper tier' council (and, again, where a PFCC has not assumed governance responsibility for the FRS), a stand-alone combined fire authority (CFA) is responsible for its governance. CFAs are comprised of elected councillors appointed by the leaders of each constituent council, with the number of members from each being based on relative population size. The requirement to reflect this, and the need to achieve political balance, informs a calculation on the overall size of CFAs, with the largest having around 25 members. There are currently 20 CFAs in England.

In metropolitan areas (with the exception of London and Manchester), arrangements are similar to those in areas where CFAs exist, with members being appointed from constituent metropolitan councils. Five FRAs of this type currently exist in England.

¹⁰ www.ifac.org/publications-resources/international-framework-good-governance-public-sector

London has a unique governance structure in comparison to other fire and rescue authorities. The mayor appoints a London fire commissioner who, in addition to being the fire and rescue authority, may have an operational role. In this model, the mayor of London retains overall responsibility for setting the strategic direction for the London Fire Brigade and holding the commissioner to account. The London fire commissioner is responsible for ensuring fire and rescue services in the capital are efficient and effective and prepares the integrated risk management plan for approval by the mayor.

Greater Manchester Fire & Rescue Service also now comes under the control of a mayor; although, unlike in London, the mayor is the fire and rescue authority. In this capacity, the mayor is responsible for discharging the duties of a fire and rescue authority, and is supported in this role by the deputy mayor for Police, Crime, Criminal Justice & Fire.

The remaining four FRAs are in areas where responsibility for governance of the fire and rescue service has been transferred to a PFCC.

The above summary provides a snapshot of the FRA governance arrangements in place at the time of drafting this guide. These are almost certain to change over time, as PFCCs and combined authority mayors replace existing fire authorities in some areas. They may also change as a result of fire authorities voluntarily deciding to merge, as was most-recently the case in Dorset and Wiltshire.

The governance role of fire and rescue authorities

The governance role of FRAs generally reflects that found in local government. Essentially, FRA members are responsible – with support from their officer colleagues – for determining the policy direction of their FRS; setting a budget to fund delivery of that policy direction; and undertaking scrutiny to ensure that intended outcomes are being achieved efficiently, effectively and in accordance with statutory requirements.

FRAs operate in accordance with a formal constitution which sets out details of the governance arrangements under which they conduct their business.

In practice, many of the FRAs legal responsibilities and other functions are assigned to sub-committees of the authority, or to senior officers via formal schemes of delegation.

FRAs must appoint the following statutory officers, who are required to help ensure that the authority conducts its affairs appropriately:

Head of paid service

Responsible for:

- overall corporate management and operational activity of the FRS
- provision of professional advice to the FRA and its committees
- ensuring a system for recording and reporting FRA decisions, together with the monitoring officer.

Chief finance officer

Responsible for:

- establishing a framework for the proper administration of the FRA's financial affairs
- setting and monitoring compliance with financial management standards
- establishing an adequate and effective system of internal audit
- advising on the corporate financial position, and key controls necessary for sound financial management
- giving accurate, impartial advice and information on financial issues to the FRA, and the FRSs senior management team.

Monitoring officer

Responsible for:

- standards of conduct for members of the FRA
- maintaining the FRAs constitution
- ensuring a system for recording and reporting FRA decisions, together with the head of paid service
- together with the chief finance officer, advising the FRA when their decisions are not in accordance with the policy and budget framework
- ensuring that no action of the FRA contravenes any legislation or code of practice, or may lead to a charge of maladministration
- preparing a formal report for the FRA, after consultation with the head of paid service and chief finance officer, where they consider that any proposal, decision or omission will give rise to unlawfulness or maladministration.

The principles of good governance

Whichever of the governance models outlined earlier in this guide are established, the process of achieving good governance, ie putting arrangements in place to ensure that intended outcomes for stakeholders are defined and achieved, depends upon the quality of governance practice that is exercised. The International Framework: Good Governance in the Public Sector, identifies principles for ensuring good governance in public sector organisations:

The first two principles are focused on acting in the public interest:

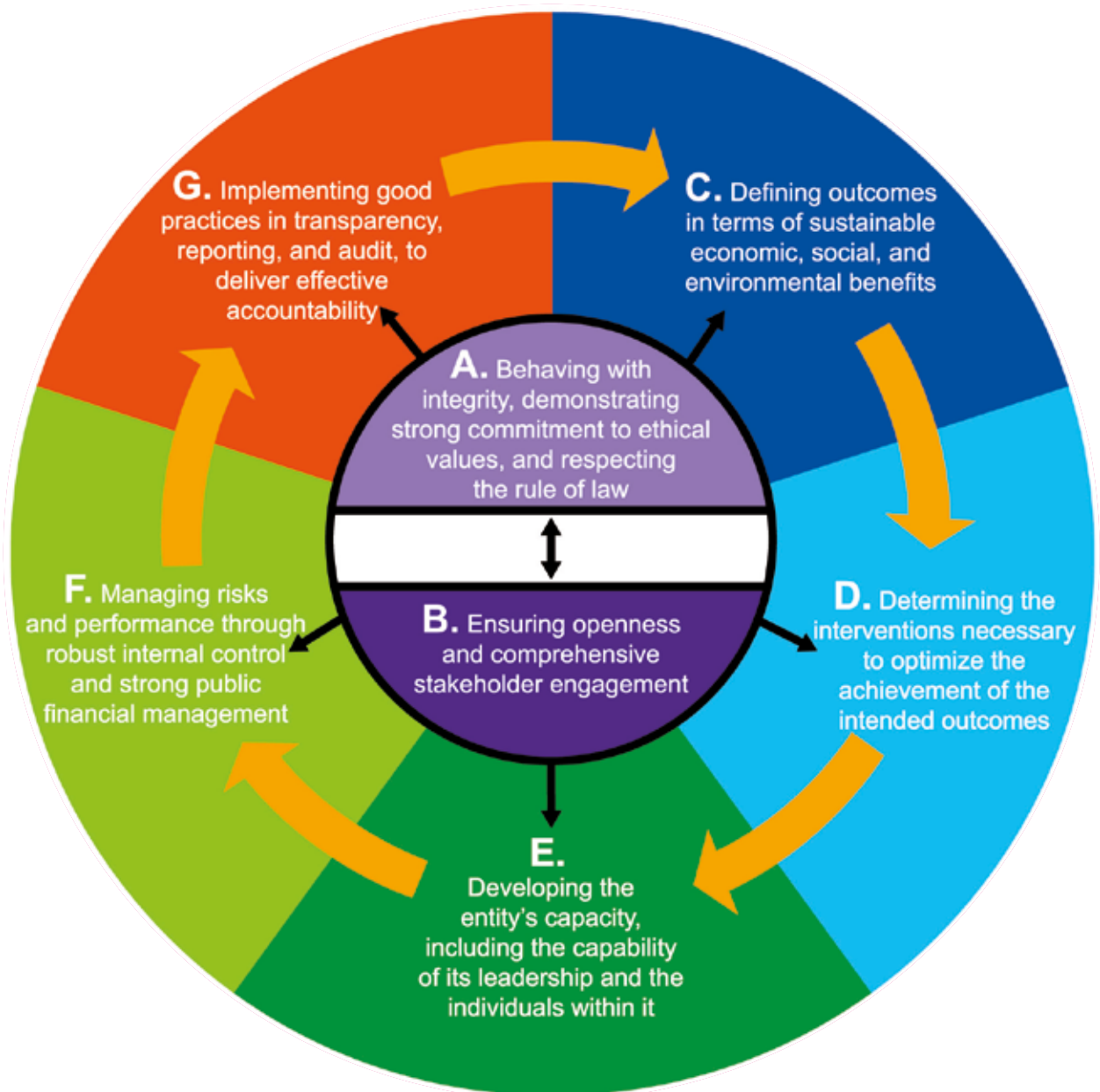
- A. behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law
- B. ensuring openness and comprehensive stakeholder engagement.

In addition to the above public interest-focused principles, the Framework submits that good governance also requires effective arrangements for:

- C. defining outcomes in terms of sustainable benefits
- D. determining the interventions necessary to optimise achievement of intended outcomes
- E. developing the organisation's capacity – including the capability of its leadership and the individuals within it to achieve intended outcomes
- F. managing risks and performance through robust internal control and strong financial management
- G. implementing good practices in transparency, reporting and audit, to demonstrate clear accountability.

The figure opposite illustrates how the various principles relate to each other, with principles A and B permeating the application of principles C to G. The figure also reflects the fact that good governance has a cyclical dimension, involving organisations: determining what they want to achieve; planning how to achieve it; delivering their plans, whilst monitoring progress; and then reflecting on how successful they have been before thinking about what to do next. If done well, this cyclical approach should lead to continuous improvement.

Figure 1: Relationship between the principles for good governance in the public sector



The role of scrutiny in good governance

In order to achieve good governance, it will be necessary for important decisions to be made about arrangements associated with the principles A-G outlined above:

- A decisions about the values and associated behaviours that will guide the organisation
- B decisions on how the organisation will demonstrate openness and engage stakeholders
- C decisions on outcomes to be achieved
- D decisions on interventions/services necessary to achieve the outcomes
- E decisions to ensure that the organisation has the human and financial resources it needs
- F decisions regarding the adequacy of progress and associated risk management arrangements
- G decisions on what will be reported to the public in order to ensure transparency and practice accountability.

In the fire and rescue sector, such decisions will either be taken by FRA members (drawing on advice and/or information provided by senior officers), or by senior officers (using authority assigned to them by elected members through schemes of delegation). In either scenario, it is essential for elected representatives to provide constructive challenge to their officer colleagues. Such 'critical friendships' tests the veracity of advice and information in the first scenario, and explores the quality of decision-making in the second.

On the above basis, the role of scrutiny by FRA members as a means of holding officers to account is central to them exercising effective governance.

Practical application of scrutiny in fire and rescue authorities

Conditions required for effective scrutiny

If the process of holding senior officers to account for the performance of FRSs is to be successful it needs to be seen as a 'critical friend'. Whilst it is important to identify how advice, information and decisions can be improved to prevent mistakes being made or repeated, the focus of scrutiny should be on forward thinking and making positive changes, rather than apportioning blame and focusing on negatives. This approach helps foster positive and constructive relationships between the FRA members undertaking scrutiny and their senior officer colleagues.

Successful scrutiny relies on the following conditions being in place:

- responsibility for performance oversight must be clearly assigned
- FRA members must have a positive attitude towards scrutiny
- senior officers must have a positive attitude towards scrutiny
- arrangements for effective work programming must be in place
- those undertaking scrutiny must have access to a range of reliable information from a variety of sources
- those undertaking scrutiny must have access to the knowledge and skills necessary to do so effectively.

Condition 1: Responsibility for performance oversight must be clearly assigned.

Unlike local authorities with executive cabinet structures, FRAs do not have a statutory responsibility to establish overview and scrutiny committees. The National Framework does, however, include an expectation that FRAs will put scrutiny arrangements in place. That being the case, it is important for there to be clarity over where responsibility for performance oversight rests. This should be made clear in the FRAs constitution, and terms of reference for the responsible body should include an explicit element regarding its role in holding officers to account.

In mayoral, PFCC and county council/unitary FRAs, this responsibility will fall by default to individual mayors, commissioners or cabinet members. In metropolitan and combined fire authorities, however, scrutiny responsibility will need to be assigned – preferably to a cross-party sub-committee of the full FRA.

Good practice – example one

Clearly assigning responsibility for performance oversight

Royal Berkshire Fire Authority¹¹ members have clearly assigned responsibility for performance scrutiny. The approach they have taken in doing so has also established constitutional separation between the decision-making role of some councillors on a management committee, and the scrutiny role of others on an audit and

¹¹ <https://decisionmaking.rbfrs.co.uk/mgListCommittees.aspx?bcr=1>

governance committee. This approach creates a degree of independence for members involved in scrutiny that does not exist where all member decisions are reserved to full fire authorities:

Full fire authority

Twenty member councillors form the authority. Their role is to approve the service budget, precept, pay policy statement, integrated risk management plan and appoint the chief fire officer, monitoring officer and chief finance officer. Each member is appointed onto, either, management committee or audit and governance committee.

Management committee

Made up of 11 cross-party members, who discharge all of the functions and responsibilities of the authority, except the above functions reserved by law to the full fire authority.

Audit and governance committee

Consists of nine cross-party councillors appointed by the fire authority. Their role is to scrutinise the performance of the service and review audit reports from internal and external auditors.

Condition 2: Positive attitude of FRA members towards scrutiny.

When operating as 'critical friends', FRA members should consistently demonstrate that they value the process and are committed to it, as well as working constructively with senior officers.

It is also important that scrutiny is seen as impartial and stays separate from party politics. However, scrutiny work will necessarily involve looking at issues that are politically contentious and high-profile. That being the case, an element of political disagreement is inevitable.

The challenge for scrutiny councillors is to use their political skills and understanding of the needs of local people to shape discussions, whilst not acting in a party political manner or using discussions aimed at constructively challenging officers to further party political objectives.

Good practice – example two

FRA members leading-by-example to demonstrate the value of constructive challenge

In 2017, County Durham and Darlington Fire and Rescue Authority¹² commissioned an independent review of their governance arrangements. The review was designed to ensure that the authority was self-aware about its strengths and weaknesses and that its governance arrangements were driving performance improvement. The review was commissioned against the backdrop of a new National Framework, and a heightened interest in FRA governance following introduction of the Policing and Crime Act 2017.

The internal audit team from Durham County Council undertook the review, with its scope focused on the following seven key areas:

- the costs of running the authority in comparison with other combined fire authorities
- the relative size of the authority
- how effective the authority was in relation to scrutinising the decisions of officers
- how effective the authority was in relation to scrutinising the performance of the FRS
- how willing and able the authority was to make difficult decisions
- how effective the authority was at engaging with key stakeholders: staff; partner organisations and communities
- how effective the authority was at driving collaboration.

12 www.ddfire.gov.uk/combined-fire-authority

The independent review helped strengthen the governance arrangements of the authority and focused the minds of elected members on their key roles and responsibilities for governance. In particular, the fire authority's constitution was amended to ensure that it better addressed the expectations set out in the National Framework document.

Condition 3: Positive attitude of senior officers towards scrutiny.

Constructive challenge works best when senior officers view it in a genuinely positive light, and as an important mechanism for improving performance and demonstrating accountability. Officers should proactively provide information and support to scrutiny activity, using their professional expertise to help elected representatives better understand the context within which the FRS is operating and make robust judgements about performance.

Good practice – suggestion A

Chief fire officers/commissioners demonstrating a positive attitude towards scrutiny

Chief fire officers/commissioners should assign lead responsibility for supporting scrutiny activity to an individual member of their senior management team. This responsibility should be clearly reflected in their job description and feature in the objectives that are set for them and against which performance appraisals will be undertaken.

Such an approach demonstrates commitment to scrutiny activity at the highest managerial level. It also establishes clear senior accountability for supporting such activity and provides a 'go-to' officer with whom scrutiny members can liaise when developing and delivering their work programme.

Condition 4: Effective work programming.

The purpose of scrutiny is to support the process of achieving positive outcomes by introducing constructive challenge. This involves undertaking a thorough, targeted examination of the FRA policy agenda that guides the work of its fire and rescue service, and the performance of the service in delivering that policy agenda. However, it is not possible to examine every aspect of policy and performance in detail. That being the case, FRA members with responsibility for performance oversight need to prioritise and plan their workload.

A well-constructed work programme will have 'planned scrutiny' at its core, ie topics which are identified in advance of the annual scrutiny cycle commencing and scheduled for examination – either in committee or through task-and-finish groups. The work programme should, however, also allow for 'responsive scrutiny', ie scrutiny of important performance issues that emerge during the course of delivering the annual work programme. The approach to work programming must therefore be flexible enough to respond to high-priority issues or policy changes that are not foreseeable at the start of the scrutiny planning cycle.

Good practice – suggestion B

Effective work programming

The process of developing a scrutiny work programme should include the following stages:

Identify potential issues for scrutiny.

These can be identified by:

- Horizon-scanning to identify external developments which may impact on the FRA's policy agenda, eg publication of a new National Framework or a public inquiry report with implications for the FRS; an upcoming inspection by HMICFRS.

- Reviewing the FRAs upcoming annual work programme to identify any key decisions that members will be taking, as a means of using scrutiny to shape those decisions, eg approving a revised integrated risk management plan; approving the budget or signing-off the annual statement of assurance.
- Reviewing year-end performance information to identify any significant gaps between objectives/targets and what was actually achieved, eg high sickness levels; a significant underspend on the capital investment programme; failure to meet emergency response standards or a significant overrun on the timeline for a major project.
- Monitoring in-year performance information to identify emerging issues that may require scrutiny. In this regard, it is important that members involved in scrutiny receive information that provides a balanced, high-level picture of the FRSs performance across all key areas of activity, ie financial performance; human resource performance; service delivery performance; major project delivery performance and corporate risk management performance.

Prioritise topics for scrutiny.

Having compiled a long-list of potential scrutiny topics, a prioritisation process should take place to ensure that those which are most important are incorporated in the work programme. Questions that should be taken into consideration when undertaking this exercise include: does the issue relate to a core statutory responsibility? Is the issue of strategic importance? Will scrutiny duplicate performance review activity being undertaken elsewhere? Is scrutiny of the issue likely to add genuine value?

Plan and schedule scrutiny of prioritised topics.

This firstly involves determining what objectives the scrutiny process is intended to achieve. Having agreed the objectives, it is then necessary to decide how the scrutiny

will be undertaken, ie during scheduled meetings of the committee or by convening separate task-and-finish groups, as well as how much time needs to be allocated in the annual work programme. The detail of who will be called to provide evidence and what questions they will be asked then needs to be developed in advance of the scrutiny activity taking place.

Post-scrutiny review and evaluation.

After scrutiny has been completed, it is important to undertake a review to evaluate the value that was added by the scrutiny process. This review activity needs to be built-in to the annual work programme.

Condition 5: Those undertaking scrutiny must have access to a range of reliable information from a variety of sources.

In order to make sound judgements and associated recommendations about issues undergoing scrutiny, it is important to gather and explore information from various sources, with a particular focus on any discrepancies between the position suggested by one source and that of another. As well as providing a mechanism to cross-validate information, this approach also enables scrutineers to capture different dimensions and perspectives on the issue in question.

Good practice – suggestion C

Using ‘triangulation’ to make judgements about a performance issue

Those involved in gathering and analysing information during scrutiny should, wherever possible, employ ‘triangulation’. This means looking at information from one source alongside that from at least one other, to build a rich and accurate picture about what’s actually going on.

Hypothetical example:

A review of year-end performance information has highlighted significant delays in a construction programme to convert several fire stations into 'emergency service hubs', ie facilities occupied by fire, police and ambulance personnel. FRA members are concerned about the delays and it is agreed that the audit and governance committee will undertake an exercise to determine what is causing them and what can be done to get the programme back on track.

In the above scenario, those undertaking scrutiny would obviously gathering data and information from their own team of officers. In order to triangulate this however, they would also need to consider gather information from other sources such as:

- members of the project team from the police and ambulance services
- contractors and sub-contractors involved in the construction projects
- front-line fire, police and ambulance staff who are providing operational input regarding the design of the buildings.

Condition 6: Those undertaking scrutiny must have access to the knowledge and skills necessary to do so effectively.

Councillors involved in performance oversight will bring a rich mixture of experience and expertise from their professional backgrounds as well as their time in politics. Notwithstanding this, it is important that they develop the specific skills required of scrutineers. These are covered in the next section of the guide.

It is also important for those undertaking scrutiny to have access to requisite knowledge regarding the subject matter. In many cases, standing members of the scrutiny body, with support from 'in-house' officers, will have the knowledge they need. However, in some cases, it will be necessary to co-opt independent expertise to support the scrutiny process, so that constructive challenges are taking place from well-informed positions.

Good practice – example 3

Using independent expertise to validate statements of assurance

Members of Cambridgeshire and Peterborough Fire Authority¹³ identified what they considered to be a weakness in arrangements for providing assurance to the operational element of the authority's annual statement of assurance. Whilst the financial and governance aspects of the statement were each informed by independent, statutory audit processes, the operational content was compiled exclusively by officers from Cambridgeshire Fire and Rescue Service.

To ensure a degree of independent challenge in all aspects of producing the statements, members of the authority put in place a memorandum of understanding with Royal Berkshire Fire Authority. The Memorandum of Understanding (MoU) established a quid pro quo arrangement involving officers from one FRS reviewing the draft operational content of the other's statement of assurance, before providing a report on its veracity to the respective FRAs.

This arrangement has enabled both FRAs to secure a higher level of assurance regarding the adequacy of operational arrangements, as published in their annual statements of assurance.

¹³ www.cambsfire.gov.uk/fire-authority

Scrutiny in action: constructive challenge through the life-cycle of an HMICFRS inspection

2018 saw the reintroduction of independent inspection in the English fire and rescue sector. Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) is responsible for undertaking the inspections and, at the time of writing this guide, was concluding the final tranche in its first round of inspections.

The inspections take place over several days and involve teams of inspectors examining the performance of a fire and rescue service, before producing a report of their findings which is then published.

The Inspectorate currently employs a methodology¹⁴ that is focused on the following headline questions:

- How effective is the FRS at keeping people safe and secure from fire and other risks?
- How efficient is the FRS at keeping people safe and secure from fire and other risks?
- How well does the FRS look after its people?

These are then subdivided into 11 core questions and around 60 diagnostic questions, which enable inspectors to gather and analyse a range of information in order to judge the extent to which FRSs are addressing the headline questions. Their performance is then categorised as either:

- outstanding
- good
- requires improvement
- inadequate.

Although the inspections themselves are 'events' which provide a snapshot of performance at the time they take place, they should not be considered from a reactive perspective, ie something that is periodically done to FRSs, which FRAs must then respond to. FRA members should be proactive in the way they engage with the newly-introduced inspection regime, and position it as an integral part of their governance and performance assurance/improvement arrangements. By taking this approach, organisational performance will improve regardless of the actual inspections, which will increasingly become an independent assurance tool – confirming what FRA members already know about the performance of their FRS. It will also significantly increase the chances of a positive inspection result.

From a governance perspective, it is important for FRA members to secure assurance that their FRS is well-prepared for HMICFRS inspections, and also that, when they take place, findings from inspections are addressed in an effective and timely fashion. The role of scrutiny in achieving this by members constructively challenging officers and holding them to account is of central importance. The remainder of this section of the guide offers a range of options for scrutiny members to consider, including:

- securing assurance that the performance expectations of HMICFRS are reflected in an FRS's internal performance management arrangements
- securing assurance that FRSs are well-prepared for an upcoming inspection
- securing assurance that robust improvement plans are put in place to address inspection findings, and that these plans are then delivered in an effective and timely fashion.

¹⁴ www.justiceinspectorates.gov.uk/hmicfrs/fire-and-rescue-services/how-we-inspect-fire-and-rescue-services/frs-inspections-question-set-2018-19

Reflecting the expectations of HMICFRS in performance management arrangements

Now that the HMICFRS inspection regime has been established, it is important for FRA members to be assured that associated expectations are incorporated into an FRS's business-as-usual arrangements. When deciding how to constructively challenge officer colleagues in this regard, scrutiny members should consider the below.

Scrutiny activity	Scrutiny actions
Scrutiny of integrated risk management plans	Secure assurance that the draft IRMP addresses HMICFRS expectations in relation to: <ul style="list-style-type: none"> • community risk analysis • proposed community safety objectives • key prevention, protection and response activities that are intended to achieve community safety objectives.
Scrutiny of people strategies	Secure assurance that people strategies address HMICFRS expectations in relation to: <ul style="list-style-type: none"> • organisational values • training and development of staff • fairness and diversity • leadership capability.
Scrutiny of efficiency plans	Secure assurance that efficiency plans address HMICFRS expectations in relation to efficiently managing community risk.
Scrutiny of in-year performance against agreed objectives and targets	Secure assurance that performance information (objectives, measures and associated targets) presented to scrutiny members addresses areas of focus for HMICFRS inspections. Where a significant performance issue is identified, in liaison with the fire authority chair and chief fire officer, consider commissioning a peer challenge via the LGA/NFCC peer support framework. ¹⁵

Preparing for an upcoming inspection

In the run-up to an HMICFRS inspection, FRSs are required to self-assess their performance against the areas of focus comprising the HMICFRS inspection methodology. The self-assessment provides important background reading for inspectors as they prepare to visit a service.

If done well by a 'self-aware' FRS, there should be a strong correlation between the self-assessment and the findings from the inspection. It is therefore considered good practice for scrutiny members to constructively challenge draft self-assessments before final versions are submitted to HMICFRS.

¹⁵ www.local.gov.uk/our-support

This will help ensure that an accurate picture of the FRS's current position is presented to inspectors – something which they will very much appreciate – both because it assists them in their work and suggests a positive organisational culture.

Addressing HMICFRS inspection findings

In the immediate aftermath of an HMICFRS inspection report being published, FRAs will need to address some immediate priorities associated with media handling etc.

Having done so, their attention should turn to overseeing the preparation and delivery of an improvement plan to address the findings that emerged from the inspection. This will involve a number of sequential stages:

- **stage 1** – overseeing preparation of an improvement plan
- **stage 2** – overseeing delivery of the improvement plan
- **stage 3** – formally signing-off the improvement plan as completed.

Scrutiny will have an important role to play in each of the above stages.

Stage 1 – preparing the improvement plan

Senior officers should be assigned responsibility for drafting an improvement plan. Having done so, and before it is presented to the FRA for formal approval, the draft plan should be exposed to constructive challenge by scrutiny members to confirm that it will fully address the inspection findings, and will do so in an efficient, effective and timely fashion.

Members should secure assurance that the improvement plan is comprised of actions which are expressed in SMART (simple, measurable, achievable, relevant and time-bound) terms. They should also confirm that associated financial costs have been

rigorously calculated and provision made to meet these from available budgets and/or reserves.

In order to fully assure themselves about the fitness-for-purpose of the plan, scrutiny members may wish to co-opt independent experts to provide assistance and independent 'critical friendship'. This is particularly relevant where the inspection result included 'inadequate' judgements, or exposed significant gaps between the picture painted by the self-assessment and the findings of the inspectors. Such a scenario would raise questions about the internal performance assessment and improvement capability of the FRS, which could be addressed by engaging peer support. Again, such post-inspection support can be accessed via the LGA/NFCC peer challenge framework.

Stage 2 – overseeing delivery of the improvement plan

Once approved, the post-inspection improvement plan should be integrated with other performance improvement activity. Scrutiny members should then receive regular progress updates on each of the SMART actions, as an integral component of the regular performance monitoring reports which are prepared for and presented to them by officer colleagues.

Stage 3 – signing-off completion of the improvement plan

Good practice would involve the FRA formally confirming that the improvement plan had been satisfactorily completed. Prior to this sign-off taking place, scrutiny members should explore and constructively challenge evidence to demonstrate that all actions have been completed.

Useful skills for 'critical friends'

This section of the guide explores a range of skills that will assist FRA members in undertaking their 'critical friendship' role effectively.

Questioning techniques

Effective questioning is a crucial component of the constructive challenge offered by 'critical friends' and, therefore, an important skill for scrutineers to develop. The key to successful questioning in a scrutiny environment is balancing the need to get answers with the need to maintain a constructive dynamic with those providing information. This can be achieved through a combination of good preparation, knowing which questions to ask and when to ask them, as well as understanding which style of questioning is most appropriate.

Pre-meetings are helpful in deciding:

- which pre-prepared questions should be asked
- who will ask the questions
- whether the chair will invite people to ask supplementary questions in a free format, or manage the process in a more formal way
- how to handle questioning when sensitive aspects of the issues are being explored – which could lead to evasive responses and a degree of defensiveness.

Good practice – suggestion D

There are a variety of questioning techniques that can be used to gather different types of information from those being questioned.

Open questions

Open questions allow the witness to open up and share all the information they have. Encouraging the witness to contribute freely and early on will allow them to speak and calm any nerves they have. This will help them relax, which increases the chances of them answering subsequent questions in an open and helpful manner.

Useful phrases:

- How would you describe... ?
- Why do you think...?
- When you...what did you...?
- Who do you...?
- What do you think about...?

Closed questions

Where a simple yes or no answer will suffice, it is advisable to stick to closed questions (such as when checking a fact). Closed questions are harder to avoid and easier to challenge:

Useful phrases:

- Did you...?
- Have you told...?
- What I think I'm hearing is... is that right?

Reflecting questions

These are used to clarify something which has been said, and/or to get the respondent to speak about a subject in more depth.

Useful phrases:

- You said that...
- You sound as if...
- I get the feeling that...

Extending questions

Extending questions invite the witness to offer more information, and to elaborate on what they have already said.

Useful phrases:

- How else could...?
- Could you tell me more about...?

Comparative questions

These can be used to compare situations (on a before and after basis, for example).

Useful phrases:

- What has it been like since...?
- What difference has...?

Hypothetical questions

The use of these allows the witness to answer a question from the safety of a theoretical position and may encourage them to provide much deeper, richer responses.

Useful phrases:

- If ...
- Imagine that...

Rephrasing or paraphrasing

Another technique that can be used to clarify something that has been said by a witness; it may also encourage them to elaborate on a previous answer and provide more detail.

Useful phrases:

- Are you saying that...?
- Let me see if I understand the situation completely...

Linking questions

Linking questions relies on active listening by the scrutineer (see below). By linking previous responses offered by the witness to other issues the scrutineer is able to demonstrate that he has valued the witness's input. This may encourage the witness to offer further information.

Useful phrases:

- You mentioned earlier that...
- Taking that into consideration, how would you...

Listening skills

Listening skills are an important part of the scrutineer's role and are closely linked with questioning. Active listening ensures that witnesses feel they are being properly heard and understood, which helps to foster constructive and fruitful dialogue.

The basic principles of active listening are:

- **positive body language** – look attentive and show positive signs of encouragement; consider the body language of the witness to gain a deeper understanding of their responses
- **checking understanding** – use paraphrasing and repetition to check that you have understood witnesses
- **taking notes** – these can be referred to later or used to challenge witnesses if an explanation has not been fully understood, or where a contradiction has appeared in information provided from different sources.

Chairing scrutiny

Through their leadership, the chair of a committee undertaking scrutiny should seek to create an environment in which constructive challenge can be used to gather good information in order for sound judgements about performance to be made.

This involves the chair facilitating discussion and encouraging all those taking part to make a full contribution.

The chair is also responsible for ensuring that the scrutiny process is managed in a way that creates a fair and balanced environment, keeping the scrutiny process free from political point-scoring and allowing for the effective exploration of all evidence that is produced.

In summary, the chair needs to ensure that the focus of the committee is on:

- making a positive impact
- identifying and promoting good practice
- challenging under performance
- acting as a catalyst for change.

Further reading

International Framework: Good Governance in the Public Sector – The International Federation of Accountants (IFAC) and The Chartered Institute of Public Finance and Accountancy (CIPFA)

www.ifac.org/publications-resources/international-framework-good-governance-public-sector

Pulling it together: A guide to legislation covering overview and scrutiny in English local government – The Centre for Public Scrutiny

www.cfps.org.uk/wp-content/uploads/Pulling-it-together.pdf

Overview and scrutiny: statutory guidance for councils and combined authorities – Ministry of Housing, Communities and Local Government, HM Government

www.gov.uk/government/publications/overview-and-scrutiny-statutory-guidance-for-councils-and-combined-authorities

The Good Scrutiny Guide – The Centre for Public Scrutiny

www.cfps.org.uk/the-good-scrutiny-guide

A Councillor's Workbook on Scrutiny – The Local Government Association

www.local.gov.uk/councillors-workbook-scrutiny

Map of English fire and rescue authorities





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