

Scrutiny in Mayoral combined authorities: six months on

A little over six months after the Mayoral elections, what have we learned about how scrutiny has worked in those parts of England with regional Mayors?

Since 2015, the Centre for Public Scrutiny has been carrying out sustained research on devolution – into how local governance can be an integral part of the dealmaking process, and into the mechanics of the how overview and scrutiny systems will operate on the ground.

Until May 2017, much of this was theory – a series of educated predictions about how governance could help Mayors and CAs deliver the outcomes they wanted for local people, as part of the devo deal they had agreed with Government.

Now, we have an opportunity to begin to reflect on whether those predictions – and predictions made by others – have come to pass.

We will start with a focus on the headlines - the key issues emerging since May – before reflecting on what has been going on with national devolution policy (such as it is) in the intervening time, and then finally looking at the experience of scrutiny practitioners and what might be to come next.

What did we do?

We spoke to officers and members who, between them, could provide us with a picture of scrutiny as it is being undertaken in the six Mayoral combined authorities. We also spoke to an officer and a member from the North East Combined Authority, part of whose area will in due course form a new North of Tyne Mayoral authority.

We also reviewed committee papers in these authorities between May and the present, alongside previous CfPS research (including the outcomes from a seminar we ran on devolution governance in March 2017).

This was a short, limited piece of research, intended to provoke further debate and discussion, and in particular to support a workshop for combined authority scrutiny members and support officers in January 2018. As our work develops and as we learn more, we hope to refine these conclusions along with providing more detailed examples of how scrutiny is transacted across all six Mayoral combined authorities, and further afield.

The headlines

- **Time may resolve some current difficulties, but not on its own.** While our work highlights some concerns about how scrutiny is developing, the experience of the two areas which have operated CA scrutiny for a significant length of time (and emerging themes from elsewhere) strongly suggests that many issues are teething problems which will naturally shake out in due course. This is, however, no reason for

complacency, and effort is still needed to define and refine scrutiny's role, amongst other things;

- **It has been a struggle to move away from “information gathering” mode to carrying out more forensic scrutiny. There is an urgent need for members to properly articulate scrutiny's role.** There is a lot to do, and a lot to learn, about strategy and policy at combined authority level. The need to get up to speed by receiving information and presentations from officers is important – but scrutiny is about more than just this. It should be said that the need to do more is understood, but resource and capacity to carry out other work is difficult to come by;
- **Relationships are developing well, although it's early days.** It is probably too early to make clear judgments on this, but early signs are positive. Introductory conversations between Mayors and scrutiny have happened and seem to have been productive;
- **The problems of resourcing and logistics continue to loom large.** Officers and members have struggled to make effective scrutiny work where members are geographically dispersed, and where they have other duties in their own authorities. Some areas are developing solutions to these challenges.

The devolution story continues

Since the Mayoral election, we have had:

- A General Election;
- A number of articles in the trade press declaring that “devolution is dead”;
- An equal number of articles in the trade press suggesting that talk of the death of devolution may be premature;
- Visible and industrious activity by Mayors to put their work plans into place;
- Additional funding in the November 2017 budget for transport and infrastructure funding for Mayoral areas (noticeably at odds with a paucity of such funding for areas without Mayors);
- The trailing of an ominously-titled “devolution framework” to guide future negotiations, currently under development by DCLG (on which we have blogged separately).

The details

Articulating scrutiny's role

In some areas, this is still proving difficult. The need to articulate scrutiny's role is becoming more pressing.

We have noted previously that, before the Mayoral election, many of the newer CA scrutiny committees were in “evidence-gathering” mode – receiving reports to learn more about combined authority business, rather than to conduct much in the way of substantive scrutiny.

This seems to have continued beyond May. Some scrutiny functions are in fact comfortable with this – although as Mayoral working develops, this may not remain the case.

Some but not all areas have had some discussions about scrutiny's role; in a couple of areas there have been recent formal reviews of scrutiny. There is an understanding that it needs to be strategic, and in some cases an understanding that it needs to be focused (probably more focused than scrutiny at local level). But, with a couple of notable exceptions, it has proven difficult to translate this aspiration into action in the few months since the election.

Scrutiny at CA level will necessarily look and feel different to local authority scrutiny. The strategic nature of the Mayor's role, and the unique Mayor/CA relationship, requires this. The role of scrutiny is not just "to hold the Mayor to account" – general, poorly-defined scrutiny of the Mayor is likely to be ineffective.

Chairs and officers are by and large aware of the difficulties around scrutiny's challenge in finding a role for itself. The two principal roles emerging at the moment are:

- Alignment with Mayoral activity (looking at decision-making, pre-decision scrutiny on major things such as the spatial strategy);
- Policy development (looking more broadly at issues affecting local people within the area of the CA's competence).

At the moment, most areas have gravitated towards the first option, but until decision-making begins to follow more of a settled rhythm, the returns from this kind of approach may be limited. In a couple of areas scrutiny has tried to follow closely the churn of Mayoral decision-making, while lacking the resources to engage with it. We are worried that, in some areas, the speed, flexibility and dynamism of Mayoral working means that scrutiny members feel that they should have to keep up (difficult, given the infrequency of meetings). It may be that this leads to a shift in focus in due course.

Some areas have determined to focus on policy development, and have set up task-and-finish style structures to undertake more detailed work; others are planning to in the near future. A model of scrutiny based on such detailed work will require a certain resource to be committed to it – four or so committee meetings a year of a single committee will not make this possible.

It will be difficult for scrutiny functions to engage productively both in policy development work, and scrutiny of Mayoral decision-making. It will not be impossible but rigorous prioritisation will be needed – based on a strong sense of what value scrutiny should be adding.

In previous research, we suggested that a transitional stage of scrutiny around the implementation of the devo deal would be followed by a longer-term approach to scrutiny which might have more of a policy development flavour to it. It remains to be seen whether this will happen, but it's clear that clarity over the role is one thing that needs to be resolved as a matter of urgency.

As 18/19 approaches, a renewed focus on this important task has become apparent. Work programme development work (probably between January and March next year) represents a critical opportunity to review the first few months, challenge assumptions, reflect on scrutiny's role and set a positive and realistic agenda for the future. ***A review of scrutiny's role (in particular, a consideration of the role that scrutiny should play in relation to Mayoral decision making) should form a part of whatever work planning takes place in early 2018.***

Securing outcomes

It is still too early to talk about outcomes from scrutiny work in combined authorities. Their work is inherently strategic, and decisions made by the Mayor and CA are likely to have long lead times. Scrutiny practitioners are going to have to think carefully about how outcomes will be identified and assessed, though. Some minds are already turning to this issue, but it probably needs to be seen as something that will rise up the agenda in terms of importance as 2018 comes around.

Developing relationships

With the Mayor

Before the Mayoral elections we were concerned about how the relationship between the Mayor, the Combined Authority and the CA scrutiny committee would develop. This three-way relationship is the lynchpin of democratic accountability, and we knew that getting it right would be critical to scrutiny working as it ought.

Relationships have, in fact, been developing remarkably smoothly. There have been different levels of Mayoral engagement in different areas – some Mayors are clearly willing to engage more consistently with scrutiny than others. But it is early days, and some areas have only had one or two formal meetings at which to start the relationship off. Generally, this has tended to involve the Mayor being invited to share his vision to members – an introductory session which will hopefully presage a more sustained and regular attendance.

More informally, most Mayors have been putting effort into discussing scrutiny's remit and role with members, and trying to understand how they can work together.

We've suggested in the past that elements of the Mayor/CA Cabinet/scrutiny relationship might need to be formalised in a protocol of some kind. Inevitably, at some point in the future disagreements and tensions will arise. At that point, the relationship will benefit from the presence of clear, unambiguous and agreed systems and processes for managing those disagreements. Informality and flexibility in the agreement is great, but having something down in writing will limit the risk of misunderstandings in the future.

With CA staff and portfolio holders

Most of the CA scrutiny functions operated in "shadow" form prior to the May elections. In a couple of cases, CAs carried out substantive scrutiny work in this time – reviewing CA decision-making prior to the Mayor's introduction. In this form they gathered evidence and information from CA officers and lead members – meaning that those relationships have been developing for some time.

There are suggestions that scrutiny is in some areas over-reliant on receiving reports and oral evidence from CA officers. With CAs being small operations, this may place an undue burden on those individuals to engage regularly. It also presents a risk to effective scrutiny. A broader range of evidence may need to be sought to give members an accurate view of how Mayoral decisions have an impact on the ground.

CA scrutiny may want to reflect on how members get access to information, and how they consider it. A tendency to move away from using committee as a forum for information-sharing will mean that this will need to be addressed more consistently.

Dealing with the logistics, and resource constraints

Resource constraints continue to loom large for many CA scrutiny functions. This is a challenge linked to the difficulty in articulating scrutiny's role, and relates in part to a struggle to prioritise the scrutiny workload.

Every Mayoral Combined Authority looks different. Their duties are different, their staff complement is different, and their governance arrangements are different. While this doesn't mean that every combined authority has needed to reinvent the wheel in how it organises itself, it has led to some challenges for scrutiny in particular, as the practical realities of

conducting scrutiny work have needed to be grappled with without the benefit of comparison or support from elsewhere.

Officer support arrangements

All of the six areas have put in place officer arrangements for scrutiny support – in some areas this involves a dedicated scrutiny officer, all of whose time is devoted to supporting scrutiny members and their work.

In some areas this is complemented by support offered by officers of constituent authorities of the CA. Where such support is made available by constituent authorities – and it is managed equitably – it clearly has the potential to make scrutiny more effective (both in terms of managing resource constraints better, and ensuring that scrutiny at combined authority and local levels are aware of each others' activity, if not necessarily aligned). This is a strong feature of the two CA scrutiny functions which have been in place for the longest – it is noticeably less apparent elsewhere, although developing. ***Developing close relationships between combined authority scrutiny and local scrutiny is therefore important, but not at the expense of the independence of either function.***

Prioritisation, focus and working together

From some on the officer side, there is a fear (as yet largely unrealised) that members will make “unrealistic” demands. This fear may yet be realised, if members fail to effectively grapple with their role in the near future.

From all sides, there is a similar concern about members' ongoing commitment. In all areas, there are some members who are disengaged – for various reasons. Logistical challenges, other commitments and a general disengagement from the work of the combined authority (including, in some instances, a continued antipathy to the idea of a Mayor in the first place) combine to make having a “critical mass” of active scrutiny members a challenge.

Where committees are large (by virtue of the need to ensure that all areas are represented in a way that is politically proportionate) a couple of areas have attempted to engage the bulk of members (and substitutes) by involving them in task and finish groups (which we have mentioned earlier).

Recognising that it is unrealistic that a committee will be able to develop a collegiate sense of purpose if it meets only infrequently, some have started to use technology (Skype and e-mail discussion lists being two principal examples) to make informal dialogue easier between meetings. These tools aside (and there are plenty of other ways, such as WhatsApp, for members to keep in touch) the Chair and members do have a difficult job in directing and participating in the scrutiny process, given the range of other duties they will have at local level.

A couple of areas have attempted to make their scrutiny committees peripatetic, moving around the area on a regular basis (in part to encourage more public attendance). However, in areas where transport connectivity isn't great, this has led to further attendance problems. ***On balance it may be that the drawbacks of moving meetings around the area outweigh the benefits.***

Quoracy requirements for scrutiny committees also appear to be causing problems in some areas. Concerns were raised about these at the outset – those concerns appear now to be bearing fruit. Some areas are attempting to use substitution to manage this risk – although this does raise parallel concerns about continuity of membership from meeting to meeting. ***Ensuring that members (and the councils nominating them) fully understand the***

implications of the quoracy requirements, and that substitution arrangements are robust enough, is vital.

It's been suggested that the agreement of special responsibility allowances (SRAs) for chairs, vice-chairs and ordinary members of scrutiny committees would be a way to acknowledge that the CA scrutiny role places unique demands on councillors. This would be a difficult sell as an allowance for all members (not to mention substitutes) but **there are strong arguments in favour of SRAs for Chairs and Vice-Chairs.**

Differences in points of view deriving from politics and geography could have loomed larger than they in fact have done. There is a shift in mindset between working at local authority level (where tactical and operational decisions often have an immediate, tangible impact) and working at the combined authority. At the CA, politics and geography combine to make the viewpoints and opinions of individual members unpredictable. Added to this is the dynamic of the Mayor and Chair being from different parties, and the situation (for example, in Tees Valley) where the Mayor is of a different party than the vast majority of the committee. **As yet, members seem to have had success in leaving politics and geography at the door – a concerted effort made by Chairs and ordinary members to make this happen.**

A word on gender balance

We published earlier in 2017 on the subject of gender balance on combined authority scrutiny committees (<http://www.cfps.org.uk/combined-authority-scrutiny-gender-balance/>).

The position remains pressing. **2018 may provide an opportunity for areas to reflect on their membership and nominations**, and to increase the proportion of women being appointed to sit.

As time passes, things will develop and improve – but not without conscious work

It is important to remember that we are barely six months into these new arrangements. Councillors are getting used to what is likely to be a different model of scrutiny at the combined authority to what they might be used to at local level. They are grappling with resource challenges and uncertainty around their role. They have been left to get on with it with minimal support.

This is potentially a liberating experience, but at the moment councillors have not had the headspace to devote to thinking strategically and creatively about the function. Over the next few months, as Mayors and CAs get the flurry of introductory work from under themselves, and eyes turn to the first full financial year of Mayoral CAs, the opportunity will exist for scrutiny to pause, take stock and consider more reflectively what its role might be.

In our view, the best opportunity to do this will come in February or March – before elections, in those areas that have them, but by which time it should be clearer what the Mayor's plans for 18/19 are, and how scrutiny could feed into that work. This is also the time when scrutiny work programme for the next year will be being developed.

This might also be the time to begin thinking about scrutiny's ongoing relationship with the public – an aspect which has not been tackled yet by many areas.

We are very conscious of the risk of "drift" as a feature of scrutiny – carrying on working in the same way because it's easy to do so. Adopting unfamiliar ways of working, and

challenging ourselves to operate in different ways, is difficult – especially when the resource to support our thinking is so limited.

The first few months provide some useful lessons about the future – they demonstrate that scrutiny can and should be a vital part of the accountability landscape for combined authorities. But to make a real difference with the powers that scrutiny has requires a plan, a sense of direction – a strong vision for the unique role that scrutiny will play. Moreover, it needs a strong vision that is well articulated to everyone involved.

2018 will be the time to state that vision and to begin to deliver against it.

Centre for Public Scrutiny
January 2018