

# What Rotherham and Mid-Staffordshire tell us about scrutiny, and where it's lacking

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There are alarming parallels between the care scandal in Mid-Staffordshire and the recent revelation of a cover up of abuse in Rotherham. Reading the products of investigations respectively carried out by Robert Francis and Alexis Jay, there are parts which could almost have been cut and pasted between the two.

In both instances, there was a disregard by senior managers for the interests of a group of people who are vulnerable and disenfranchised, and under the direct care of a public body (in Stafford often elderly patients under the care of the hospital trust; in the case of Rotherham, looked after children). There were performance management systems which, by negligence or design, recorded the wrong things in the wrong way – focusing on financial management and process targets rather than the effectiveness and safety of care. And on top of this, there were jumbled accountability arrangements, in which responsibilities for oversight overlap and duplicate, allowing individuals and organisations to complacently assume that “someone else” was doing the important job of scrutiny.

As the Francis and Jay reports both noted, it is a culture of ignorance and/or assumptions based on inaccurate or incomplete evidence, which leads to this kind of service failure. These are [issues that we flagged up to practitioners, and others, on the publication of the Francis report last year](#). Concerns flagged up by frontline staff – some very courageously acting as whistleblowers in the face of trenchant opposition from both their managers and colleagues – can be ignored when this culture is allowed to fester. This is because a groupthink emerges – which reinforces existing inadequate practices, and which doesn't want to look too closely behind the performance indicators that show the casual observer a “sea of green”, telling everyone that everything is fine.

## Questions for scrutiny

Where is scrutiny in all of this? Arguably, it is too often absent or inadequate. In both Stafford and Rotherham, scrutiny seems to have placed too much store on the assurances of people in authority that everything was fine. Even if they had wanted to ask challenging questions, it appears they did not have access to the information to do so.

Effective scrutiny involves looking beyond the information with which scrutiny is presented in formal meetings. We talk a lot about the need for scrutiny to work closely with the executive. This does not mean uncritically accepting reports and performance information at face value. It means providing constructive, critical challenge based on gathering data from a range of sources and triangulating it to see where official information might be at variance with reality. We still see far too many councils engaging in discussions on agenda items at scrutiny committees where the committee's only source of evidence on that subject is a report written

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and presented by a chief officer. Very often these reports are presented “to note” – requiring no action, seemingly placed on agendas as a tick-box exercise so that officers can console themselves that they have “consulted” members on a topic, and members can similarly console themselves that they have received an “update” on an issue, and that all is well. This kind of committee activity is at best lacking in value and at worst can be dangerous, as it lulls everyone into a false sense of security that effective governance and oversight exists where it does not. Furthermore, it uses up precious resources which should correctly be used to carry out the real business of scrutiny.

So what *is* the real business of scrutiny? Repeated service failures and tragedies suggest to us that scrutiny should be playing a much more active role in challenging councils, and their partners, to back up their assertions of the quality of service that public agencies provide to local people. There are three key questions which scrutiny should be asking – not just in relation to child protection or healthcare, but every service.

- **How do I know that this council, and those with whom it works, will be aware when significant problems rear their head – and do I have confidence that this information will be acted on?** This is about making sure that performance indicators measure the right things – it is also to ensure that performance systems have within them a sense of humanity, with officers and members remembering that they are taking responsibility for people’s lives in ways that will have a profound effect on their future. If members cannot be assured that such systems for picking up on and addressing problems exist, they cannot effectively carry out their oversight role. This is because limitations of resources will require that scrutiny look at issues “by exception”. If members lack confidence in the council’s own performance management systems – and/or if they do not fully understand those systems and how they operate – scrutiny can become disjointed, disproportionate and meaningless. We have published [more detailed thoughts on performance management](#) which may help;
- **Does scrutiny itself have access to information which will allow me to confidently challenge, on the basis of evidence, the council’s assertions about the quality of a service?** Relying exclusively on the council’s official data for this exercise is inadequate. Scrutiny will have to know that it has systems in place to delve deeper into a service to explore the frontline reality that sits behind the views of senior officers at the committee table. In some cases this might involve reviewing a random, anonymised sample of case files (the kind of review which would have immediately highlighted problems in Rotherham). In others, it may involve speaking to frontline workers, and to service users themselves. It is important to say that anecdotes like these are not a replacement for performance information, but they set that information in a vital, human context. CfPS has explored the various different sources of corporate information available to councillors in a recent [Practice Guide](#);

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- **Do council officers and officers from other agencies agree and accept that scrutiny has this role to play?** One of scrutiny's principal strengths is in policy and service development. But in order to develop and improve you need evidence on how things are done now. You also need the respect and acknowledgement of those at every level of an organisation. When scrutiny involves sitting in a committee room talking to no-one except senior officers and other carefully-vetted witnesses, it risks becoming part of the same groupthink that we criticised earlier in this piece. Some councils need to seriously reappraise their standing practices about how and when scrutiny engages with frontline officers and others who might have different stories to tell about how services are delivered. There is, for example, a serious case for building scrutiny formally in to whistleblowing procedures.

### Questions for political and managerial leaderships

We believe it is important to restate that council leaderships – political and managerial – bear some responsibility for ensuring they have effective arrangements for scrutiny and challenge. Too often we hear from leaders and senior officers either complaints that scrutiny members are ineffective or a rejection of the very idea that better scrutiny of what the executive is doing should be encouraged. Leaders and Chief Executives are statutorily responsible each year for signing off the council's accounts, including the Annual Governance Statement in which they confirm that there are effective arrangements for ensuring good governance, probity and accountability. Where scrutiny is acknowledged to be weak or where there is either overt or covert collusion in keeping it weak, it is hard to see how such statements can reasonably be made. Research we carried out around our [Accountability Works](#) campaign and, more recently, when we looked at [public sector transparency](#), sets out these cultural expectations clearly and unambiguously.

The Stafford and Rotherham examples present instances of councillors being blocked from accessing critical information about council services. Anecdotally we know that a worrying number of scrutiny functions experience this level of obstruction, leading in some extreme cases to councillors having been forced to use Freedom of Information Act to require their own council to provide them with information to which they are in fact entitled. This kind of difficulty continues, notwithstanding enhancements in councillors' information access rights brought in by secondary legislation. When faced with this kind of blockage – both to information, and to attempts to effect change through asking difficult questions and making challenging recommendations – there can be few places to which scrutiny can turn. Likewise the officers who support scrutiny – often relatively junior compared with the chief officers whose directorates their members may be questioning – can be pressured not to let the members get too close to a problem. There are statutory scrutiny officers with a responsibility for promoting and ensuring the effectiveness of scrutiny. However, it seems to us that their role and status may need to be

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strengthened, and Monitoring Officers need to step up to the plate in ensuring the constitution functions correctly and protects those whom it is designed to protect.

We have recently set out [proposals for the establishment of local Public Accounts Committees](#) which we see having a formal power of referral to national bodies like the national PAC and NAO. We see no reason why powers should not also be given to enable scrutiny committees to refer issues formally to bodies such as Ofsted and the Care Quality Commission where they have concerns which are being blocked or ignored locally. While there is nothing to prevent scrutineers from contacting these bodies directly now, that kind of formal power could act as a much-needed incentive to councils and others to take the role and responsibilities of scrutiny much more seriously. There is strong evidence that the existing power of referral held by health overview and scrutiny committees over NHS reconfigurations has been used responsibly and to achieve better outcomes.

Even without these powers, and in councils with limited resources, scrutiny must be prepared to take action along the lines we have suggested above. No-one else is going to. As elected councillors, scrutiny members have a unique credibility and legitimacy to exercise this role – robustly, on the basis of evidence and in a public forum. It is not about poring over every figure, every piece of data, being suspicious and sceptical of everything a senior officer tells you. It is about scrutiny members asking the questions to assure themselves that there are systems locally which mean that, in future, they will be able to trust the data they get – to know that it is recording the right things, to know that big issues are not being ignored, and to know that emerging risks of failure are recognised and acted on without delay.

This is not a job for next month or next year. It's a job for right now. If scrutiny isn't fundamentally about the central issue of improving outcomes for people, there's no point to it. The only way that it can go about making that improvement happen is by understanding how services are really experienced on the ground, and challenging those responsible to review and improve. Receiving reports and performance scorecards at committee meetings is not the way to do this. Forensic, targeted, meaningful scrutiny – crucially, incorporating listening to the voices of those who experience the services – is.

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