

INTRODUCTION TO OVERVIEW AND SCRUTINY

Executive Summary

This report seeks to provide the Members of the Overview and Scrutiny Committee with the background to ‘overview and scrutiny’ and an outline of the roles and responsibilities of the Committee, together with the approaches adopted by the Council.

One of the key reference documents for the Members of the Committee is the Scrutiny Toolkit, a copy of which is attached as an appendix. The Toolkit seeks to provide information, practical guidance and clarity to everyone involved in the overview and scrutiny process at Woking Borough Council. The toolkit has been drawn from a variety of sources and includes many good practice points selected from leading authorities in the field.

The toolkit will enable members of the Overview and Scrutiny Committee to ensure that they concentrate on topics that matter to the residents of Woking, and this in turn will help the Committee play a significant role in shaping the future direction of the Borough.

Recommendations

The Committee is requested to:

RESOLVE That

- (i) the report be noted; and
- (ii) the 2022/23 Scrutiny Toolkit, as set out in Appendix 1 to this report, be received.

The Committee has the authority to determine the recommendation set out above.
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Background Papers:	None.
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1.0 Background to Overview and Scrutiny

- 1.1 The concept of 'overview and scrutiny' was first introduced to local authorities by the Local Government Act 2000. Prior to the Act, local authorities in the UK made decisions through meetings of the full Council or of Committees, commonly referred to as 'the Committee system'. Typically, a committee managed one or more Council services, such as the Housing Committee, the Policy and Resources Committee and the Highways Committee.
- 1.2 The 2000 Act obliged local authorities to adopt political management systems with a separate executive. The 'executive' would take the form of a leader or elected Mayor and a cabinet of no more than nine members. The remainder of the Council was required to scrutinise the Executive by establishing at least one overview and scrutiny committee which would investigate the policies of the Executive and their implementation, issuing reports and drawing attention to shortcomings.
- 1.3 Overview and scrutiny committees may not include members of the Council's Executive, and their membership should in general reflect the political balance of the local authority.
- 1.4 In England, the main provisions for overview and scrutiny can now be found in schedule 2 of the Localism Act 2011, which largely consolidated previously existing law. Initially the district councils in England and Wales with a population of less than 85,000 had the option of a 'streamlined committee system'. Councils which adopted this approach were still required to establish at least one overview and scrutiny committee which would scrutinise the decision-making committees. The Localism Act 2011 extended this option to all Councils in England, since when many have readopted the Committee system. The 2011 Act also removed the obligation for councils using the committee system to have an overview and scrutiny committee.

Powers and Functions

- 1.5 The powers and functions provided for through the legislation include:
 - Any member of an overview and scrutiny committee has the right to refer a relevant matter to the Committee. In England, this provision does not apply to matters concerned with planning and licensing, or to 'any matter which is vexatious, discriminatory or not reasonable to be included in the agenda'.
 - Overview and scrutiny committees may hold inquiries and produce reports. Meetings are subject to the normal rules for public admission.
 - Overview and scrutiny committees have the power to 'call-in' decisions made by the executives. They may then review a decision and recommend that the council reconsiders it. This power is normally defined to 'key decisions', which are defined in law. The government guidance implies that call-in would be expected to be used as a last resort when other methods of engagement have failed. Councils will normally specify a window of time after a decision during which this power can be exercised, and a minimum number of Councillors to exercise it.
 - The Committee may require executive members and officers of the authority to appear before them. Individuals from outside the authority can be invited, but not compelled, to attend.
 - Overview and scrutiny reports must receive a response from the Council's Executive within two months.
 - Overview and scrutiny committees cannot oblige either the executive, the council or external bodies to act upon their findings.

2.0 The Council's Constitution

2.1 For Woking Borough Council, the roles and responsibilities of the Overview and Scrutiny Committee are outlined in Article 6 of the Constitution, as set out below.

General Role

2.2 Within its terms of reference, the Overview and Scrutiny Committee will:

- (a) review and/or scrutinise decisions made (or to be made) or actions taken (or to be taken) in connection with the discharge of any of the Council's functions;
- (b) make reports and/or recommendations to Full Council and/or the Leader/Executive;
- (c) consider any matter affecting the area or its inhabitants;
- (d) exercise the right to call-in, for reconsideration, Executive decisions made but not yet implemented; and
- (e) deal with crime and disorder matters referred to it under the Police and Justice Act 2006;
- (f) consider any valid Councillor Call for Action.

Specific Functions

- (a) Policy development and review.

The Overview and Scrutiny Committee may:

- i) assist the Council and the Leader/Executive in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
- ii) conduct research, community consultation and other consultation in the analysis of policy issues and possible options;
- iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- iv) question the Leader, members of the Executive and/or Committees and Corporate Management Group members about their views on issues and proposals affecting the Borough; and
- v) liaise with other external organisations operating in the Borough, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

- (b) Scrutiny.

The Overview and Scrutiny Committee:

- i) may review and scrutinise the decisions made or to be made by and performance of the Leader/Executive and/or Committees and Council officers, both in relation to individual decisions and over time;
- ii) may review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;

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- iii) may question the Leader, members of the Executive and/or individual members (to the extent that the latter have been granted powers in relation to their ward) and/or Committees and Corporate Management Group members about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- iv) may make recommendations to the Leader/Executive and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- v) may review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance;
- vi) may question and gather evidence from any person or organisation (with their consent) and require information from partner authorities;
- vii) may review and scrutinise equality issues, and
- viii) shall be responsible for ensuring effective scrutiny of the Treasury Management Strategy and Policies

(c) Finance.

The Overview and Scrutiny Committee have overall responsibility for the finances made available to them.

(d) Annual Report.

The Overview and Scrutiny Committee shall publish an annual report outlining work undertaken during the year, and may make recommendations for future work programmes and amended working methods (if appropriate).

(e) Petitions.

The Overview and Scrutiny Committee is responsible for considering petitions received under the Petition Scheme that fall into the following categories:

- Petitions requiring a Senior Officer to give evidence to the Overview and Scrutiny Committee;
- Appeals from Petitioners who are not satisfied with the response to a petition, and
- Where the petition has been referred to the Committee for further investigation.

2.3 The Overview and Scrutiny Committee conducts its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of the Constitution. This includes membership, quorum, task groups, reporting arrangements, call-in, and Councillor Call for Action.

3.0 The Scrutiny Tool Kit

3.1 To assist Members of the Overview and Scrutiny Committee in their roles and responsibilities, a 'Toolkit' has been drawn up which provides information, practical guidance and clarity to everyone involved in the overview and scrutiny process at Woking Borough Council. It has been drawn from a variety of sources and includes many best practice points selected from leading authorities in the field.

- 3.2 A copy of the Toolkit is attached (Appendix 1).
- 3.3 The Toolkit enables Members of the Overview and Scrutiny Committee to ensure that they concentrate on topics that matter to the residents of Woking, and this in turn will assist in shaping the future direction of the Borough. The Toolkit includes:
- An introduction to Overview and Scrutiny
 - Information on Topic Selection and the Annual Work Programme
 - The Overview and Scrutiny Process
 - The Call-In Procedure
 - Councillor Call for Action
 - Public Participation
 - Supporting Documents
- 3.4 The Toolkit will be reviewed annually, to be brought to the Committee at its June meeting at the beginning of each Municipal Year. This will enable new Members of the Committee to raise any questions over the processes and will ensure that the Committee's approach to scrutiny remains relevant.

Task Groups

- 3.5 Within the document there is information on the Task Groups created by the Committee, which can be set up to carry out an in depth piece of work on behalf of the Committee. The topic to be reviewed is chosen by the Committee, and the Task Group chooses how best to carry out the review. Members are appointed to Task Groups by the Committee.
- 3.6 There are two types of Task Groups:
- Standing Task Group – which is ongoing and provides an overview of the services of the Council, reporting directly to the Overview and Scrutiny Committee.
 - Ad Hoc Review Task Group – which can be established by the Committee to review particular issues that cannot be considered within a normal meeting.

4.0 Work Programme

- 4.1 The Work Programme is a live document and subject to regular review. It has the capacity to consider matters referred to the Committee by the Executive and also deal with any Call-Ins. Overview and Scrutiny is a Member led process and when Members lead on developing the Annual Work Programme the benefits to the community are maximised.
- 4.2 The work programme is reviewed at each meeting of the Committee and is intentionally developed to ensure flexibility and capacity to deal with any issues which may arise during the year. The Committee receives details of the Executive's Forward Plan to assist it in developing the Work Programme.
- 4.3 Topics can be suggested by Councillors, Officers and members of the public, and topics can be referred from the Executive or Council. Before a subject is chosen for review, at least one of the following criteria should be met to establish whether the proposed topic should be selected:
- The Scrutiny Review is likely to result in improvements for local people.
 - The topic falls within a Community or Corporate priority area, such as the Community Strategy and the Council's priorities.

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- The topic represents a key issue for the public.
 - The service proposed for Scrutiny Review is performing poorly. A Review may pick up on areas of weakness identified through the Council's Audit reports or the Performance and Financial Monitoring Information published by the Council.
 - There is a high level of dissatisfaction with the service.
- 4.4 In considering items for inclusion on the Work Programme, the Members should have particular regard to the time and resources (including officer time) needed to deliver the programme.

5.0 Submitting a Topic for Scrutiny

- 5.1 The setting of an Annual Work Programme is an important part of the Scrutiny process. Overview and Scrutiny is a Member led process and as such, Members should lead on developing the Work Programme for the Committee. A key element of the Work Programme is the identification of topics for scrutiny reviews.
- 5.2 A Topic Selection Form has been developed to assist the Overview and Scrutiny Committee to select topics in a structured and consistent way, which can be recorded and justified if necessary. A form must be completed for every topic suggested in order to define the objectives, determine the methodology of the review and agree timescales of the review.
- 5.3 An example of the form is attached at Appendix 2. Those Members wishing to raise a topic should submit the completed form to the Chairman and Vice-Chairman of the Committee for information. The proposal would be brought to the next available meeting of the Committee to determine whether the topic is to be taken forward for scrutiny.

The Scrutiny Process

- 5.4 Ideally, when considering a topic for scrutiny, Members should consider what benefits the review will achieve, the anticipated timescale and what resources will be necessary to complete the review. Scrutiny Reviews are Member-led and as such Members will have a greater role to play than would be the case with a standard working group of the Council.
- 5.5 The Overview and Scrutiny Committee can appoint any Member to a Task Group, regardless of their Committee membership, with a view to ensuring that those with the most relevant background serve on the Task Groups. The responsibilities of Members will be determined at the earliest stage of a review, identifying those Members responsible for undertaking the necessary research, inviting 'witnesses' or 'experts' and managing the Scrutiny review.
- 5.6 Reviews can be undertaken by a single Councillor or a group of Councillors, to be appointed by the Committee. The Members undertaking a review will be expected to report regularly to the Overview and Scrutiny Committee on its progress and to bring forward its findings at the end of the process.
- 5.7 The work programme of the Committee will be taken into consideration when considering any topic review requests.

Implications

- 5.8 When considering a topic for scrutiny, the Members of the Committee should be mindful of the implications of a review. For example, the financial implications of a scrutiny review would need to be considered before a decision was taken to proceed with a review. Similarly any proposals for scrutiny review topics would need to identify the level of human resource necessary to complete the review, whether this is in the form of elected member, officer or expert witness time.

6.0 Call-in

- 6.1 Call-in provides a mechanism for councillors to intervene when they feel that a decision being made by the Executive needs to be revisited (or possibly changed). It provides a key check and balance in the leader/cabinet system of governance.
- 6.2 It should, however, be regarded as a measure that is only needed in exceptional circumstances, rather than day-to-day. It sits in the context of a range of other tools at scrutiny's disposal to influence decision-making. There is no obvious correlation between councils with high (or low) numbers of call-ins and those with effective scrutiny functions; a larger number of call-ins has no direct effect on the proportion of those call-ins that lead to an amended decision.
- 6.3 Call-in should be seen in context – it is one of a number of tools available to influence decision-making. Members may, for example, carry out pre-decision scrutiny, which can lessen the need for call-in. Call-in can also be seen as part of a process whereby scrutiny can challenge the assumptions and evidence behind decisions.

Woking Borough Council's Procedures

- 6.4 All members of the Council are sent a copy of the draft minutes of the Executive on the day following the meeting of the Executive. The draft minutes include a statement that the decisions within the minutes will come into force, and may then be implemented, after five working days following the publication of the document, unless one or more decision is called-in.
- 6.5 During the five working days, the Chairman of the Overview and Scrutiny Committee or any three Members of the Committee, can notify the Proper Officer of their desire to call-in a decision for scrutiny. The request for call-in must include the reasons for the call-in, which would then be shared with all Members of the Council.
- 6.6 A meeting of the Committee will then be arranged, where possible after consultation with the Chairman of the Committee, and in any case within five working days of the decision to call-in. If, having considered the decision, the Overview and Scrutiny Committee wishes to take action it may choose to:
 - refer the decision back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns; or
 - refer the matter to the next ordinary meeting of Full Council.
- 6.7 If referred back to the Executive, the matter would be reconsidered at the next ordinary meeting of the Executive or earlier if so determined by the Leader. In the event the decision was made by an individual, the individual would reconsider the matter within five working days of the request. The Executive or individual decision-maker will reconsider the initial decision, amending the decision or not as the case may be, before adopting a final decision.
- 6.8 In the event the Overview and Scrutiny Committee does not meet within five days of the call-in, or does meet but does not refer the matter back, the decision will take effect on the date of the Overview and Scrutiny meeting, or the expiry of the five day period, whichever is the earlier.
- 6.9 If the matter is referred to Full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will take effect on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

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- 6.10 However, if the Council does object, it cannot make any decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the Executive or decision-making individual, together with the Council's views on the decision. The Executive or individual will then have the options to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive, a meeting has to be convened within five working days of the Council's request. Similarly, where the decision was made by an individual, the individual will reconsider the matter within five working days of the Council request.
- 6.11 It should be noted that the call-in procedure does not apply where the decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call in process would be seriously prejudicial to the Council's or the public's interests. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

7.0 Councillor Call for Action

- 7.1 The Councillor Call for Action provides Members with the opportunity to ask for discussions at the Overview and Scrutiny Committee on issues where local problems have arisen and where other methods of resolution have been exhausted. The powers are to help Ward Councillors tackle local problems on behalf of their constituents (as a last resort) when all other avenues have failed to resolve the issue.
- 7.2 The power is limited to issues affecting a single ward and any Councillor can make a Councillor Call for Action irrespective of their existing role on the Council. It can be about any issue of the Councillor's choice, regardless of which organisation is responsible, subject to statutory exceptions (for example if the matter is the subject of an existing complaint or is vexatious in its nature). The process is not designed to provide an immediate solution but will allow a high profile public discussion of the issue.

The Council's Arrangements for Councillor Call for Action

- 7.3 Under the Council's arrangements, the Overview and Scrutiny Committee will consider a Councillor Call for Action that:
- has been submitted in relation to a matter that affects a single Ward;
 - has been submitted by a Councillor from the Ward affected;
 - is in relation to a Local Government matter;
 - demonstrates that all existing avenues have been exhausted and that this is a matter of a 'last resort';
 - has been submitted on the Councillor Call for Action Request Form;
 - adheres to the process set out in the flow diagram; and
 - states the nature of the issue, what action has been taken to resolve the issue, an outline of the resolution to the problem being sought, and an indication of any other organisations involved in the Councillor Call for Action.
- 7.4 The flow diagram set out in Appendix 3 seeks to ensure that the Councillor has exhausted all other avenues in seeking to resolve an issue and that the Call for Action is a 'last resort'. Such avenues are to include discussing the matter with the relevant CLT member, Senior Manager

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or Portfolio Holder, and with any organisations which could assist. In addition, the issue must fall outside the statutory exclusions for a Call for Action.

7.5 The Overview and Scrutiny Committee will not consider a Councillor Call for Action that:

- Is a vexatious, persistent, unreasonable or discriminatory request; and
- Is in relation to a Planning, Licensing or Regulatory application.

7.6 The following process has been adopted for a Councillor Call for Action:

- Step 1 – Ensure the issue qualifies as a Call for Action.

The Ward Councillor should initially apply the criteria for a Call for Action, as set out in the Flow Chart, ensuring that the issue qualifies.

- Step 2 – Call for Action Form

A Councillor Call for Action form must be completed by the Ward Councillor and submitted to the Democratic Services Team. A form has been drawn up to cover all the main points of a Call for Action, including:

- The nature of the issue;
- What action has been taken to resolve the issue;
- An outline of the resolution to the problem being sought; and an indication of any other organisations involved in the Councillor Call for Action.

A copy of the form is set out at Appendix 3.

- Step 3 – Chairman's Consideration

The Chairman of the Overview and Scrutiny Committee determines whether or not a Call for Action is considered. This will be based on ensuring that all other avenues have been exhausted, and that the statutory exclusions have been considered. In considering a Call for Action, the Chairman must take into account the potential resource implications.

In the event a Call for Action is submitted by the Chairman in his or her role as a Ward Councillor, the Vice-Chairman of the Overview and Scrutiny Committee will determine whether or not the Call for Action is considered.

- Step 4 – Initial Report to the Committee

The Overview and Scrutiny Committee will receive an initial report which will enable the Members to determine the appropriate priority in its work programme, taking into account the outcome sought, potential resource implications and whether and when to include the request in the Committee's Work Programme.

This report will be drawn up by a Democratic Services Officer in consultation with the Chairman of the Overview and Scrutiny Committee (or, in the event a Call for Action is received from the Chairman of the Committee, in consultation with the Vice-Chairman). Further Officers may be consulted at this stage if necessary.

- Step 5 – Recommendations of the Committee

Once in the Work Programme, a report will be prepared for the Committee on the Call for Action which will set out a recommended resolution to the request. Consideration will be given to comments from partner organisations, evidence from appropriate experts and any other relevant information.

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The report for the Committee will be drawn up through the appropriate Senior Manager in consultation with the Chairman of the Committee. Support may be provided by Democratic Services. Depending on the nature of the Call for Action, it may be necessary to consult partner organisations or appropriate experts.

- **Step 6 – Seeking a Resolution**

The recommendations of the Committee will be submitted to the Executive (or to other partner organisations, if relevant).

- **Step 7 – Monitoring of Recommendations.**

The Overview and Scrutiny Committee will be responsible for the monitoring of the implementation of the decisions taken.

7.7 The full process to be followed is set out in the flowchart in Appendix 3 and is set out in the Overview and Scrutiny Committee Procedure Rules within the Constitution.

7.8 In terms of the implications of a particular Councillor Call for Action, any requests received would need to be considered individually and may have financial, legal and other resource implications to take into account.

8.0 Training and Development

8.1 Included within the Council's approach is a programme of training events, briefings and information documents. The Council has also developed a framework for Councillors' learning and development which includes the roles and responsibilities of elected Members. The framework is being updated and once completed will be circulated to all Councillors. Included is an outline of the roles and responsibilities of the Chairman of the Overview and Scrutiny Committee, a copy of which is set out in Appendix 4 to this report.

8.2 There are many agencies that provide support and guidance around overview and scrutiny, notably South East Employers (seemp.co.uk), the Local Government Association (www.local.gov.uk) and the Centre for Governance and Scrutiny (www.cfgs.org.uk), all of which have published useful reference documents for both elected Members and Officers.

8.3 The annual programme of training and development is guided by Members and suggestions for training topics can be submitted during the year. Such suggestions will then be considered in terms of the costs involved and the number of Members interested in attending.

9.0 Officer Support

9.1 The Overview and Scrutiny Committee is supported by Officers from Legal and Democratic Services who attend the meetings of the Committee and liaise with the Chairman and Vice-Chairman on the development of the Committee agendas and the Work Programme. In addition, Officers from across the Authority and partner organisations will attend the meetings to discuss their specific areas of expertise under the programme of topics identified by the Committee.

9.2 Support for the Overview and Scrutiny Committee is currently being reviewed in the light of Dr Edila's recommendations.

10.0 Protocol between the Overview and Scrutiny Committee and the Executive

10.1 At its meeting on 20 January 2022, the Executive agreed a recommendation from the Overview and Scrutiny Committee that a protocol be agreed to clarify the relationship between the Committee and the Executive to support a framework of strong democratic transparency and

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accountability, and to establish effective communication between Scrutiny and Executive Members. The aim was to promote an effective role for Scrutiny and foster a good working relationship between the Committee and the Executive that will ensure the Committee makes a valuable contribution to the effective running of Woking Borough Council, resulting in positive outcomes for residents of the Borough.

- 10.2 The Protocol applies to all Members of the Overview and Scrutiny Committee, any Member who may sit on a Scrutiny Task Group, Working Group, and all Members of the Executive (comprising the Leader and the various Executive Members).
- 10.3 Attached as Appendix 5, the document sets out guidance on the way in which Members in their respective roles interact to enable the Authority to carry out the Overview and Scrutiny function. The Protocol also outlines the framework and procedures underpinning the operation of scrutiny and provides guidance on the role of officers who support this process.
- 10.4 The following areas are covered by the Protocol:
- Key Functions of Overview and Scrutiny at Woking Borough Council
 - The Scrutiny Process
 - Relationship between Overview and Scrutiny and the Executive
 - Expectations of the Executive Members
 - Expectations of Overview and Scrutiny Members
 - The Work Programme and Executive Forward Plan
 - Conduct at Meetings.

11.0 Implications

Financial

- 11.1 There are no financial implications arising from this report.

Legal

- 11.2 The legal framework within which the Overview and Scrutiny Committee operates is as set out in points 1 and 2 of this report.

Human Resource/Training and Development

- 11.3 There are no human resource or training and development implications arising from this report. The report itself forms part of the Council's overall approach to learning and development, taken together with training events and other briefings.

Community Safety

- 11.4 There are no community safety implications arising from this report.

Risk Management

- 11.5 There are no risk management implications arising from this report.

Sustainability

- 11.6 There are no sustainability implications arising from this report.

Equalities

- 11.7 There are no equalities implications arising from this report.

Safeguarding

11.8 There are no safeguarding implications arising from this report.

12.0 Conclusions

12.1 This report seeks to provide the Members of the Overview and Scrutiny Committee an outline of the roles and responsibilities of the Committee, together with the tools and support available.

12.2 Beyond the support provided through the Council, a number of agencies provide valuable support for both the Members of the Committee and Officers supporting the function of overview and scrutiny, either through training or through the publication of guides. Members can find full details on the websites of the respective agencies and can submit suggestions for future training events on key topics or skills.

REPORT ENDS