

Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities

Gap Analysis

	Guidance – key points	Current arrangements
Culture	Authorities can establish a strong organisational culture by:	
a)	<p>Recognising scrutiny’s legal and democratic legitimacy</p> <p>All Members and Officers should recognise and appreciate the importance and legitimacy the scrutiny function is afforded by the law. It was created as a check and balance on the Executive and is a statutory requirement for all authorities operating executive arrangements (and for combined authorities).</p>	This is set out in the Constitution. The role of scrutiny is also well understood amongst Senior Officers.
b)	<p>Identifying a clear role and focus</p> <p>Authorities should take steps to ensure scrutiny has a clear role and focus within the organisation, i.e. a niche within which it can clearly demonstrate it adds value. Therefore prioritisation is necessary to ensure the scrutiny function concentrates on delivering work that is of genuine value and relevance to the work of the wider authority.</p> <p>Authorities should ensure a clear division of responsibilities between the scrutiny function and the audit function.</p> <p>While scrutiny has no role in the investigation or oversight of the authority’s whistleblowing arrangements, the findings of independent whistleblowing investigations might be of interest to scrutiny</p>	<p>A clear challenge for local authorities is to ensure that Overview and Scrutiny arrangements provide an opportunity for engagement by Members in activity which generates revelatory findings and recommendations that make a real difference. The Council has developed its Scrutiny Tool Kit over the years to assist Members in meeting the challenge of ensuring its work is of genuine value and relevance to the work of the wider authority.</p> <p>The division of responsibilities between the scrutiny function and the audit function of the Authority is clearly described in the terms of reference of the Standards and Audit Committee and the Overview and Scrutiny Committees.</p>

	<p>Committees as they consider their wider implications. Members should always follow the authority's constitution and associated Monitoring Officer directions on the matter.</p>	
<p>c)</p>	<p>Ensuring early and regular engagement between the Executive and scrutiny</p> <p>Authorities should ensure early and regular discussion takes place between scrutiny and the Executive, especially regarding the latter's future work programme. Authorities should, though, be mindful of their distinct roles:</p> <ul style="list-style-type: none"> ○ The Executive should not try to exercise control over the work of the Overview and Scrutiny Committee. All Members and Officers should consider the role the Committee plays to be that of a 'critical friend'. ○ The Chairman of the Overview and Scrutiny Committee should determine the nature and extent of an Executive Member's participation in a Scrutiny Committee meeting, and in any informal scrutiny task group meeting. 	<p>There is currently no regular dialogue between the Chairman of the Overview and Scrutiny Chairman and the Leader of the Council. This is an area highlighted by the training provided to the Members of the Committee and it is RECOMMENDED that a formal opportunity for discussion between the Chairman of the Committee and the Leader of the Council be established.</p> <p>It is noted that individual Members of the Executive can each be held to account by the Overview and Scrutiny Committee.</p> <p>The Members of the O&S Committee receive a Work Programme report at each meeting and are able to select items from the Executive's Forward Plan for pre-decision scrutiny. The Committee sets its own work programme and this is a principle enshrined in the Council's Constitution.</p> <p>Managing participation falls within the normal role of a Chairman in managing a meeting. Executive Members are invited to attend meetings of the Committee at which topics within their Portfolio areas are to be discussed and may be invited to give evidence to Overview and Scrutiny Task Groups.</p>
<p>d)</p>	<p>Managing disagreement</p> <p>Effective scrutiny involves looking at issues that can be politically contentious. It is therefore inevitable that, at times, an Executive will disagree with the findings or recommendations of a Scrutiny Committee.</p> <p>It is the job of both the Executive and scrutiny to work together to reduce the risk of this happening, and authorities should take steps to predict,</p>	<p>Party politics and party groups are the basis of the system of UK local government and therefore there will always be differing (and sometimes polarised) points of view across the political spectrum on Council strategy, policy and budgetary priorities.</p> <p>Overview and Scrutiny Committee Members will engage in private party group meetings in their capacity as Councillors and may be either pre-disposed to support the direction of travel set by the</p>

identify and act on disagreement.

One way in which this can be done is via an 'executive-scrutiny protocol' which can help define the relationship between the two and mitigate any differences of opinion before they manifest themselves in unhelpful and unproductive ways.

Scrutiny Committees do have the power to 'call in' decisions, i.e. ask the Executive to reconsider them before they are implemented, but should not view it as a substitute for early involvement in the decision-making process or as a party-political tool.

Leader and Executive (if they are Members of the majority group) or to support another point of view aligned to a particular party line if they are Members of an Opposition Group. This is a reality in Overview and Scrutiny arrangements and entirely legitimate as long as it does not amount to predetermination. The earlier recommendation to adopt a formal opportunity for discussion between the Chairman of the Committee and the Leader of the Council will support the relationship between the two bodies.

In other words, as long as Members keep an open mind, examine the relevant evidence and take into account Officer advice and the views of stakeholders on any issue.

The views of the Overview and Scrutiny Committee are routinely presented to the Executive in relation to items that have been the subject of pre-decision scrutiny or call-in and fully reflect the balance of views expressed across the political spectrum. The Executive will always consider these views.

The MHCLG guidance highlights the benefits of adopting a protocol to clarify the relationship between the Executive and the Overview and Scrutiny Committee in order to ensure the smooth conduct of Overview and Scrutiny business and to encourage effective communication between Scrutiny and Executive Members. Such protocols can lead to more effective scrutiny of and support for the Executive, resulting in better outcomes for the residents of the Borough. It is therefore **RECOMMENDED That a draft Executive / Overview and Scrutiny Committee protocol be drawn up for consideration by the Overview and Scrutiny Committee and recommendation onto the Executive, in consultation with the Chairman and Vice Chairman of the Overview and Scrutiny Committee and the Leader of the Council.** In considering this recommendation, Members of the Committee should note that the Centre for Governance and Scrutiny has made the point that the value of producing such a protocol often derives more from the conversations that precede its agreement than the document

e)

Providing the necessary support

While the level of resource allocated to scrutiny is for each authority to decide for itself, when determining resources an authority should consider the purpose of scrutiny as set out in legislation and the specific role and remit of the authority's own Scrutiny Committee(s), and the scrutiny function as a whole.

Support should also be given by Members and Senior Officers to Scrutiny Committees and their support staff to access information held by the authority and facilitate discussions with representatives of external bodies.

itself.

In common with other local authorities, Woking Borough Council is experiencing an unprecedented reduction in resources and capacity. However, Political Leaders and Senior Officers continue to recognise the value of the scrutiny function and there has been no reduction in the size of the Democratic Services Team or the funding set aside for Elected Member training. In light of the findings of the report by Dr Edila, a post within the Team has been reviewed and has now been established as the Scrutiny and Democratic Services Officer.

Proposals to establish a budget of £20,000 for the Committee were recently considered by Council at its meeting on 29 July 2021. To ensure transparency and oversight of this budget, it is recommended that a procedure is put in place to consider requests for the use of the budget, the reporting of its use and an appropriate audit trail of the expenditure. It is therefore **RECOMMENDED That a report be brought to a future meeting of the Overview and Scrutiny Committee proposing the adoption of management arrangements for the release of, reporting on and audit of the Scrutiny budget, the proposals to be drafted in consultation with the Chairman and Vice-Chairman of the Committee.**

New and creative approaches to scrutiny work continue to evolve in response to shrinking capacity elsewhere across the organisation. A systematic approach to the selection of topics for in-depth scrutiny work, and the rigorous prioritisation of scrutiny work programmes, will ensure the quality of outcomes from scrutiny activity. Members of the Committee will continue to be directed to training and guidance available through agencies such as the Local Government Association and the Centre for Governance and Scrutiny.

		<p>There have not been any issues in terms of accessing information or holding discussions with external bodies. Regular briefings by partner organisations and arms-length companies are provided, often at meetings of the Committee or as specific Member Briefings.</p>
f)	<p>Ensuring impartial advice from Officers.</p> <p>Authorities, particularly Senior Officers, should ensure all Officers are free to provide impartial advice to Scrutiny Committees. This is fundamental to effective scrutiny.</p> <p>Of particular importance is the role played by ‘statutory Officers’ – the Monitoring Officer, the Section 151 Officer and the Head of Paid Service, and where relevant the statutory scrutiny Officer. These individuals have a particular role in ensuring that timely, relevant and high-quality advice is provided to scrutiny.</p>	<p>It has always been the case that the Chief Executive and Senior Officers both advise the Leader and the Executive and also support the Overview and Scrutiny Committee in its deliberations, providing information and answering questions as required.</p> <p>There may be a range of options and a difference of political opinion about the way forward on a particular matter but Overview and Scrutiny Committee Members are able to request factual information and advice from Officers and are often supported in key lines of enquiry which may culminate in a range of alternative points of view being presented to the Executive.</p> <p>Certain posts within the Authority are deemed ‘politically restricted’ which means that individuals who hold them are effectively prevented from having any active political role either in or outside the workplace. This not only debars post holders from holding or standing for elected office but also prevents them from the following:</p> <ul style="list-style-type: none">• Canvassing on behalf of a political party or a person who is or seeks to be a candidate.• Speaking to the public at large or publishing any written or artistic work that could give the impression that they are advocating support for a political party. <p>These restrictions aim to prevent politics coming into play where an employee is in a politically influential position. This could be</p>

		<p>where an employee implements the authority's policies, gives advice to, or speaks on behalf of, the authority.</p> <p>All Member level reports, including reports to Overview and Scrutiny Committees, are produced in accordance with a corporate template which requires the inclusion of risk, legal and financial implications, and reference to the Corporate Strategy.</p>
<p>g)</p>	<p>Communicating scrutiny's role and purpose to the wider authority</p> <p>The scrutiny function can often lack support and recognition within an authority because there is a lack of awareness among both Members and Officers about the specific role it plays, which individuals are involved and its relevance to the authority's wider work. Authorities should, therefore, take steps to ensure all Members and Officers are made aware of the role the Scrutiny Committee plays in the organisation, its value and the outcomes it can deliver, the powers it has, its Membership and, if appropriate, the identity of those providing Officer support.</p>	<p>The role of scrutiny is well understood amongst Senior Officers. The Committee's Work Programme is shared with the Council's Corporate Leadership Team and Senior Managers and Officers are encouraged to identify topics of interest for consideration for future work programmes. The Council's induction programme for new Members of Staff includes a briefing by the Head of Democratic Services on '<i>Democracy at the Council</i>', explaining the roles of Elected Members and the different Committees. Furthermore, a booklet aimed at raising political awareness amongst Officers has been provided to Senior Managers, again explaining the different roles of Councillors and the specific posts held by individuals.</p> <p>In terms of Member awareness, training on the role of overview and scrutiny is provided to which all Members of the Council are encouraged to attend. A recording of the training is made to ensure any Members unable to attend on the evening can watch the event at a more convenient time.</p> <p>At the first meeting of the Committee in the Municipal Year, a report on overview and scrutiny is presented, together with details of the 'tools' adopted by the Council to support the work of the Committee Members.</p>
<p>h)</p>	<p>Maintaining the interest of full Council in the work of the Scrutiny</p>	<p>The Chairman of the Overview and Scrutiny Committee prepares an annual report for Council which sets out the work of the</p>

Committee

Part of communicating scrutiny's role and purpose to the wider authority should happen through the formal, public role of full Council – particularly given that scrutiny will undertake valuable work to highlight challenging issues that an authority will be facing and subjects that will be a focus of full Council's work. Authorities should therefore take steps to ensure full Council is informed of the work the Scrutiny Committee is doing.

One way in which this can be done is by reports and recommendations being submitted to full Council rather than solely to the Executive. Scrutiny should decide when it would be appropriate to submit reports for wider debate in this way, taking into account the relevance of reports to full Council business, as well as full Council's capacity to consider and respond in a timely manner.

Committee over the past year and its aspirations for the coming year. The report is considered by the Overview and Scrutiny Committee before being presented to Council at its last meeting of the Municipal Year (April).

The Council's Constitution sets out the reporting options available to the Overview and Scrutiny Committee, and includes provision for reports to be brought direct to Council. The Constitution states that:

- “(a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Proper Officer for consideration by the Leader/Executive if the proposals are consistent with the existing budgetary and policy framework, or to the Council as appropriate. The Overview and Scrutiny Committee may publish its report or recommendations.*
- (b) If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or Leader/Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Leader/Executive with the majority report.*
- (c) The Overview and Scrutiny Committee shall by notice in writing require the Council or the Leader/Executive:-*
 - (i) to consider the report or recommendations,*
 - (ii) to respond to the Overview and Scrutiny Committee indicating what action (if any) the Council or the Leader/Executive proposes to take,*
 - (iii) if the Overview and Scrutiny Committee has published the report or recommendations, to publish a response,*

(iv) *if the Overview and Scrutiny Committee provided a copy of the report or recommendations to a Member of the Council under section 21A(8) of the Local Government Act 2000, to provide the Member with a copy of the response, and to do so within two months beginning with the date on which the Council or the Leader/ Executive received the report or recommendations or (if later) the notice.*

(d) *The Council or Leader/Executive shall consider the report of the Overview and Scrutiny Committee within one month of it being submitted to the Proper Officer.”*

i)

Communicating scrutiny’s role to the public

Authorities should ensure scrutiny has a profile in the wider community. Consideration should be given to how and when to engage the authority’s communications Officers, and any other relevant channels, to understand how to get that message across. This will usually require engagement early on in the work programming process.

There is a clear opportunity for the Council to improve its communication of the scrutiny role of the Committee. The Centre for Governance and Scrutiny makes clear that:

“Scrutiny is outward facing – an important strategic function of the Council. Scrutineers should work closely with those involved in communications – another important strategic function – to think about how scrutiny’s work can engage a wider audience in order to achieve the agreed objective and outcome.”

It is therefore **RECOMMENDED that (i) a communications plan be established on the work of the Overview and Scrutiny Committee which would promote the work of the Committee within the resources available. This could include a dedicated web page setting out the work of the Overview and Scrutiny Committee..** It is suggested that each Task Group established by the Committee should consider the matter of communications at its initial meeting as part of its scoping work, identifying the ways in which it intends to communicate with the wider audience. There may, for example, be an opportunity to harness digital technology to generate more coverage of overview and scrutiny activity.

j)

Ensuring Scrutiny Members are supported in having an independent mindset

Formal Committee meetings provide a vital opportunity for Scrutiny Members to question the Executive and Officers.

Inevitably, some Committee Members will come from the same political party as a Member they are scrutinising and might well have a long-standing personal, or familial, relationship with them.

Scrutiny Members should bear in mind, however, that adopting an independent mind-set is fundamental to carrying out their work effectively. In practice, this is likely to require scrutiny chairs working proactively to identify any potentially contentious issues and plan how to manage them.

The importance of scrutiny acting as a 'critical friend' is dealt with as part of the Member training programme.

As stated above party politics is a reality in Local Government and entirely legitimate as long as any pre-disposition based on political party affiliation does not amount to pre-determination; in other words, Members should keep an open mind, examine the relevant evidence and take into account Officer advice and the views of stakeholders on any issue.

All Members receive training and advice on how to deal with conflicts of interest and can always seek the advice of the Council's Legal Team.

Resourcing

Every authority should recognise that creating and sustaining an effective scrutiny function requires them to allocate resources to it.

Authorities should also recognise that support for Scrutiny Committees, task groups and other activities is not solely about budgets and provision of Officer time, although these are clearly extremely important elements. Effective support is also about the ways in which the wider authority engages with those who carry out the scrutiny function (both Members and Officers).

When deciding on the level of resource to allocate to the scrutiny function, the factors an authority should consider include:

- Scrutiny's legal powers and responsibilities;
- The particular role and remit scrutiny will play in the authority;
- The training requirements of Scrutiny Members and support

The legal powers and responsibilities of the Committee are set out in the Council's Constitution and were reported to the Committee at its first meeting of the Municipal Year.

The Council's training programme is assessed by South East Employers (SEE) and for some 15 years the Council has successfully been awarded Charter recognition by SEE. The annual programme is both proactive, identifying and staging training and briefings on topics considered necessary or of interest to Elected Members, and reactive, always welcoming suggestions for training opportunities from Elected Members and Officers. The Council's Scrutiny Tool Kit includes various approaches to Scrutiny, including the use of effective questioning as part of a scrutiny review.

The Tool Kit was presented to the Members of the Committee at its meeting on 12 June 2021. A number of changes have been made to the Officer support of the Committee and it is accordingly **RECOMMENDED That the Scrutiny Tool Kit be updated to include,**

Officers, particularly the support needed to ask effective questions of the Executive and other key partners, and make effective recommendations;

- The need for ad hoc external support where expertise does not exist in the Council.
- Effectively-resourced scrutiny has been shown to add value to the work of authorities, improving their ability to meet the needs of local people; and
- Effectively-resourced scrutiny can help policy formulation and so minimise the need for call-in of executive decisions.

Authorities should ensure that, whatever model they employ, Officers tasked with providing scrutiny support are able to provide impartial advice.

This might require consideration of the need to build safeguards into the way that support is provided. The nature of these safeguards will differ according to the specific role scrutiny plays in the organisation.

amongst other points, reference to the new Officer support arrangements, the budget available for Scrutiny work and the guidance available, notably that issued by the Local Government Association, the MHCLG, South East Employers and the Centre for Governance and Scrutiny. A revised copy of the Tool Kit to be issued to Members in due course.

The Council's approach to scrutiny reviews includes a topic selection form which identifies the anticipated resources necessary for the review as well as any external expertise requirements. In considering any topic for scrutiny, Members must consider what benefits would be brought about the work, the cost of the work in terms of both finances and Member and Officer time, and the need to experts, witnesses or other external representatives.

Administrative support for the Overview and Scrutiny Committee has traditionally been provided from within the Democratic Services Team by Democratic Services Officers on generic job descriptions. In light of the recommendations put forward by Dr Edila, the Council has recently agreed to recruit a Scrutiny and Democratic Services Officer to fill a recent vacancy in the Team. Whilst the individual will take the lead within the Team on overview and scrutiny, support will also be provided by other Officers within the Team. The Council has also identified lead Officers for overview and scrutiny from within the Corporate Leadership Team (Giorgio Framallicco) and the Legal Team (Kuldip Channa).

For any in-depth scrutiny review a lead Officer from the relevant Council Department would be assigned to work alongside the Scrutiny and Democratic Services Officer to support Members.

Selecting Committee Members

An authority must consider when forming a Committee that, as a group, it possesses the requisite expertise, commitment and ability to act impartially to fulfil its functions.

Authorities should take care to ensure that, as a minimum, Members holding less formal Executive positions, e.g. as Cabinet assistants, do not sit on scrutinising Committees looking at portfolios to which those roles relate. Authorities should articulate in their Constitutions how conflicts of interest, including familial links, between Executive and Scrutiny responsibilities should be managed, including where Members stand down from the Executive and move to a Scrutiny role, and vice-versa.

Selecting individual Committee Members

When selecting individual Members to serve on Scrutiny Committees, an authority should consider a Member's experience, expertise, interests, ability to act impartially, ability to work as part of a group, and capacity to serve.

Authorities should not take into account a Member's perceived level of support for or opposition to a particular political party (notwithstanding the wider legal requirement for proportionality).

Selecting a Chair

The attributes authorities should and should not take into account when selecting individual Committee Members also apply to the selection of the Chair, but the Chair should also possess the ability to lead and build a sense of teamwork and consensus among Committee Members.

Chairs should pay special attention to the need to guard the Committee's independence. Importantly, however, they should take care to avoid the Committee being, and being viewed as, a de facto opposition to the Executive.

The allocation of Committee seats to party groups is considered annually by Selection Panel which recommends any changes to Full Council. Selection Panel proposes the size of Committees in such way to ensure proportionality is maintained.

The appointment of Members to Committees is agreed by Council in accordance with the wishes of each Political Group as required by the Local Government and Housing Act 1989 and associated regulations.

Selecting individual Committee Members

Each Group has its own process for deciding how to match Councillors to Committees. It is understood that regard is given to the particular interests and experience of each Councillor.

The Council has adopted a Learning and Development Framework for Members which includes a summary of the Roles and Responsibilities of Elected Members. This includes details of the role of the Chairman of the Committee, its purpose, specific tasks, personal attributes and the desired skills and knowledge. A copy of the description was presented to the Committee at its first meeting of the Municipal Year. Whilst not a formal recommendation for the Overview and Scrutiny Committee, the Council's Learning and Development Framework will be updated in consultation with the Lead Members for Elected Member Learning and Development to reflect any recent changes to services/information referred to, before being issued to all Members of the Council.

The Member Code of Conduct includes provisions on how conflicts of interest should be managed by elected Members. Training on the Code of Conduct is offered to Members each year. The Council recently (April 2021) adopted the new Code of Conduct, drawn up by the Local Government Association and guidance published by

Given their pre-eminent role on the Scrutiny Committee, it is strongly recommended that the Chair not preside over scrutiny of their relatives.

The method for selecting a Chair is for each authority to decide for itself, however every authority should consider taking a vote by secret ballot.

Training for Committee Members

Authorities should ensure Committee Members are offered induction when they take up their role and ongoing training so they can carry out their responsibilities effectively. Authorities should pay attention to the need to ensure Committee Members are aware of their legal powers, and how to prepare for and ask relevant questions at scrutiny sessions.

When deciding on training requirements for Committee Members, authorities should consider taking advantage of opportunities offered by external providers in the sector.

Co-option and technical advice

While Members and their support Officers will often have significant local insight and an understanding of local people and their needs, the provision of outside expertise can be invaluable.

There are two principal ways to procure this:

- Co-option – formal co-option is provided for in legislation. Authorities must establish a co-option scheme to determine how individuals will be co-opted onto Committees; and
- Technical advisers – depending on the subject matter, independent local experts might exist who can provide advice and assistance in evaluating evidence.

the Association in July 2021 was circulated to all Members.

Selecting a Chair

In regard to the selection of the Chairman of the Committee, this is a matter previously considered by Members in 2018 as part of the scrutiny review of the Government's response to the review of overview and scrutiny functions. Whilst a secret ballot could be introduced, the law requires the appointment of a Chairman and Vice Chairman to be decided by a majority of the Committee present and voting thereon at the relevant meeting. The arrangements at Woking Borough Council has not caused any issues in the past and the introduction of a secret ballot would reduce the transparency of the process.

A role description for the position of Chairman is included in the Council's guide '*Finding the Answers*'.

The Overview and Scrutiny Committee is currently Chaired by a Member of the Opposition Group (2021/22). The Majority Group hold the Vice Chairman position.

Training for Committee Members

There is a comprehensive induction and training programme, including an introduction to scrutiny, the responsibilities of the Overview and Scrutiny Committee and skills for effective scrutiny. A comprehensive briefing paper on the role and responsibilities of the Members of the Committee was presented at the first meeting of the Municipal Year and training provided by South East Employers was recently offered to all Members of the Council. Training for the Chairman and Vice-Chairman of the Committee through the LGA has also been arranged and further training by South East Employers is scheduled for early September.

		<p>An external provider usually delivers the session on scrutiny skills.</p> <p><i>Co-option and technical advice</i></p> <p>Task Groups established by the Committee may well choose to co-opt Members from outside of the authority. These may represent special interest groups, witnesses or experts.</p> <p>Expert opinions can assist the Members of the Overview and Scrutiny Committee to reach an informed and well-argued position on the issues of concern. However, in the current financial climate the commissioning of expert advice where there is an associated cost cannot be undertaken lightly and should be considered as part of the consideration of any suggestions for a scrutiny review.</p>
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<p>Power to Access Information</p>	<p>When considering what information scrutiny needs in order to carry out its work, Scrutiny Members and the Executive should consider scrutiny’s role and the legal rights that Committees and their individual Members have, as well as their need to receive timely and accurate information to carry out their duties effectively.</p> <p>Scrutiny Members should have access to a regularly available source of key information about the management of the authority – particularly on performance, management and risk. Where this information exists, and Scrutiny Members are given support to understand it, the potential for what Officers might consider unfocused and unproductive requests is reduced as Members will be able to frame their requests from a more informed position.</p> <p>Officers should speak to Scrutiny Members to ensure they understand the reasons why information is needed, thereby making the authority better able to provide information that is relevant and timely, as well as ensuring that the authority complies with legal requirements.</p>	<p>The Council’s Constitution sets out the Authority’s Access to Information Procedure Rules (under ‘<i>Procedure Rules</i>’). This covers both the access to information for members of public and for Elected Members of the Council. The Constitution provides that:</p> <p><i>“20.1 Rights to Copies</i></p> <p><i>Subject to Rule 20.2 below, the Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to:</i></p> <ul style="list-style-type: none"> <i>a) any business transacted at a meeting of the Executive or its Committees;</i> <i>b) any decision taken by an individual Member; or</i> <i>c) any executive decision by an Officer acting under powers delegated by the Leader/Executive.</i>
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While each request for information should be judged on its individual merits, authorities should adopt a default position of sharing the information they hold, on request, with Scrutiny Committee Members.

The law recognises that there might be instances where it is legitimate for an authority to withhold information and places a requirement on the Executive to provide the Scrutiny Committee with a written statement setting out its reasons for that decision. However, Members of the Executive and Senior Officers should take particular care to avoid refusing requests, or limiting the information they provide, for reasons of party political or reputational expediency.

Before an authority takes a decision not to share information it holds, it should give serious consideration to whether that information could be shared in closed session. The Members of the Overview and Scrutiny Committee should be aware of their legal power to require Members of the Executive and Officers to attend before them to answer questions. It is the duty of Members and Officers to comply with such requests.

Seeking information from external organisations

Scrutiny Members should also consider the need to supplement any authority-held information they receive with information and intelligence that might be available from other sources, and should note in particular their statutory powers to access information from certain external organisations.

When asking an external organisation to provide documentation or appear before it, and where that organisation is not legally obliged to do either, Scrutiny Committees should consider the following:

- a) **The need to explain the purpose of scrutiny** – the organisation being approached might have little or no awareness of the Committee’s work, or of an authority’s scrutiny function more generally, and so might be reluctant to comply with any request;

20.2 Limit of Right

The Overview and Scrutiny Committee will not be entitled to:

- a) *any document that is in draft form; or*
- b) *any part of a document that contains exempt or confidential information, unless that information is relevant to (i) an action or decision they are reviewing or scrutinising or intend to scrutinise or (ii) any review contained in any programme of work of the Overview and Scrutiny Committee.”*

Information about the Council’s performance, budget monitoring and risk is reported to both the Overview and Scrutiny Committee and the Executive on a regular basis. All Members of the Council receive the agendas for Executive meetings in full and budget and performance monitoring information is regularly provided to all Members of the Council. Following the discussions at the meeting of the Committee on 12 July 2021, a briefing session for Members will be arranged on the ‘Green Book’.

There is understandable concern that the publication of the ‘Green Book’ does not coincide with the meetings of the Committee. It is therefore proposed that the Members of the Committee should consider the Green Book on its publication and identify any questions or areas of concern in advance of the Committee meeting with the Chairman and the Scrutiny and Democratic Services Officer. Such matters can then be resolved expeditiously and, where appropriate, reported on at the subsequent meeting of the Committee. Such an approach would also facilitate the involvement of the Portfolio Holder in the response if necessary. It is therefore **RECOMMENDED That (i) the Members of the Overview and Scrutiny Committee, where possible, raise any questions or areas of concern arising from the ‘Green Book’ with the Chairman of the Committee in advance of the meeting of the Committee; and (ii) a report summarising the points raised and**

b) **The benefits of an informal approach** – individuals from external organisations can have fixed perceptions of what an evidence session entails and may be unwilling to subject themselves to detailed public scrutiny if they believe it could reflect badly on them or their employer. Making an informal approach can help reassure an organisation of the aims of the Committee, the type of information being sought and the manner in which the evidence session would be conducted; and

c) **How to encourage compliance with the request** – Scrutiny Committees will want to frame their approach on a case by case basis.

For contentious issues, Committees might want to emphasise the opportunity their request gives the organisation to ‘set the record straight’ in a public setting; and

d) **Who to approach** – a Committee might instinctively want to ask the Chief Executive or Managing Director of an organisation to appear at an evidence session, however it could be more beneficial to engage frontline staff when seeking operational level detail rather than Senior Executives who might only be able to talk in more general terms. When making a request to a specific individual, the Committee should consider the type of information it is seeking, the nature of the organisation and the authority’s pre-existing relationship with it.

Following ‘the Council Pound’

Scrutiny Committees will often have a keen interest in ‘following the Council pound’, i.e. scrutinising organisations that receive public funding to deliver goods and services. Authorities should recognise the legitimacy of this interest and, where relevant, consider the need to provide assistance to Scrutiny Members and their support staff to obtain information from organisations the Council has contracted to deliver services. In particular, when agreeing contracts with these bodies,

responses given be presented to the subsequent meeting of the Committee.

Provisions enabling the Executive and other Committees to go into closed session (thereby excluding the press and public) are used sparingly, as are the provisions for executive decisions to be taken urgently.

The Council’s arrangements for Part II reports for Council, the Executive and Committees are summarised below. The details are set out in full in the Council’s Confidentiality Contract contained in the Constitution.

The lead Officer consults the Council’s Monitoring Officer (or in their absence, the Deputy Monitoring Officer) in the event they believe their report contains exempt or confidential information.

The Monitoring Officer will determine whether the report should go forward as a Part II item in accordance with the Regulations. If so, the Monitoring Officer will also determine whether the report contains any information which could be included in a separate report under Part I of the agenda.

Once published, a paper copy of the report will be included in a register of Part II reports maintained by the Monitoring Officer.

The reports on the register are reviewed annually by the Monitoring Officer to determine whether the information contained continues to be exempt or confidential, or can be released as a public document.

Seeking information from external organisations

The powers available to Overview and Scrutiny Committees to require information and attendance by external organisations at meetings is fairly limited. However, invitations to a range of

authorities should consider whether it would be appropriate to include a *requirement* for them to supply information to or appear before Scrutiny Committees.

organisations to attend Committee meetings or participate in Task Group evidence sessions over a number of years have invariably been accepted and constructive input has generally been provided.

Following 'the Council Pound'

There is a clear desire by the Overview and Scrutiny Committee to review the performance of the organisations contracted or commissioned by the Council to provide goods and services. Indeed, the Committee's work programme includes reviews of the performance of a number of key commercial partners of the Council, including Freedom Leisure and Amey. The Centre for Governance and Scrutiny has published a helpful guide for Councillors on scrutiny of risk and commercialisation. The Guide suggests that effective use of scrutiny provides five principal elements which support commercialisation activity:

- Helping to drive forward cultural transformation (further work on the cultural dynamics of change);
- Helping to make judgments about the rationale underpinning commercial activity;
- A focus on risks;
- Oversight of governance itself – executive side management systems and the relationships between partners;
- Oversight of performance monitoring (rather than performance monitoring itself, which will largely be managed by traditional means, and within contract).

It is felt that the guide would support the Committee in its scrutiny of the performance of partner organisations and it is therefore **RECOMMENDED that the guide to scrutiny of risk and commercialisation published by the Centre for Governance and**

		<p>Scrutiny, be brought to a future meeting of the Committee for consideration.</p>
<p>Planning Work</p>	<p>Effective scrutiny should have a defined impact on the ground, with the Committee making recommendations that will make a tangible difference to the work of the authority. To have this kind of impact, Scrutiny Committees need to plan their work programme, i.e. draw up a long-term agenda and consider making it flexible enough to accommodate any urgent, short-term issues that might arise during the year.</p> <p>Authorities with multiple Scrutiny Committees sometimes have a separate work programme for each Committee. Where this happens, consideration should be given to how to co-ordinate the various Committees' work to make best use of the total resources available.</p> <p><i>Being clear about scrutiny's role</i></p> <p>Scrutiny works best when it has a clear role and function. This provides focus and direction. While scrutiny has the power to look at anything which affects 'the area, or the area's inhabitants', authorities will often find it difficult to support a scrutiny function that carries out generalised oversight across the wide range of issues experienced by local people, particularly in the context of partnership working. Prioritisation is necessary, which means that there might be things that, despite being important, scrutiny will not be able to look at.</p> <p>Applying this focus does not mean that certain subjects are 'off limits'. It is more about looking at topics and deciding whether their relative importance justifies the positive impact scrutiny's further involvement could bring.</p> <p>When thinking about scrutiny's focus, Members should be supported by key Senior Officers. The statutory scrutiny Officer, if an authority has</p>	<p>The Overview and Scrutiny Committee is responsible for its own work programme, as clearly specified in the Constitution which states that:</p> <p><i>"The Overview and Scrutiny Committee will be responsible for setting its own work programme. An annual meeting of the Committee shall be held to set the work programme for the coming year, and the Committee shall have particular regard to the time and resources (including Officer time) needed to deliver the programme. The Committee shall be assisted in its work by sight of the Leader's draft Forward Plan for the whole year."</i></p> <p>The work programme is organic rather than fixed on an annual basis and is reviewed at every meeting of the Committee. Outside of the formal Committee meetings, Officers discuss the Work Programme with the Chairman and Vice Chairman to identify key issues of concern and shape the priorities for scrutiny activity. Items for work programmes will originate from both suggestions by Officers and by Members.</p> <p><i>Being clear about scrutiny's role</i></p> <p>In depth scrutiny reviews are undertaken by small cross-party Task Groups of Councillors, often on cross-cutting issues. The Constitution supports the establishment of Task Groups and advises that:</p> <p><i>"Task Groups shall be established as follows. The Committee shall receive draft terms of reference for consideration. These shall be debated and agreed as necessary. The Committee shall also consider the number of persons to be appointed to the Task Group</i></p>

one, will need to take a leading role in supporting Members to clarify the role and function of scrutiny, and championing that role once agreed.

Who to speak to

The Public – Authorities should consider how their communications Officers can help scrutiny engage with the public, and how wider internal expertise and local knowledge from both Members and Officers might make a contribution.

Partners – relationships with other partners should not be limited to evidence-gathering to support individual reviews or agenda items. A range of partners are likely to have insights that will prove useful.

The Executive – a principal partner in discussions on the work programme should be the Executive (and Senior Officers). The Executive should not direct scrutiny's work but conversations will help Scrutiny Members better understand how their work can be designed to align with the best opportunities to influence the authority's wider work.

Information sources

Scrutiny will need access to relevant information to inform its work programme. The type of information will depend on the specific role and function scrutiny plays within the authority, but might include:

- Performance information from across the authority and its partners;
- Finance and risk information from across the authority and its partners;
- Corporate complaints information, and aggregated information from political groups about the subject matter of Members' surgeries;

and its political balance; usually the composition of the Task Group shall take into account proportionality without applying it inflexibly. Nominations to the Task Group shall be agreed by the Committee and, if necessary, determined by voting.

Subject to the above and to applying the guidance of the Toolkit when commissioning work, the Committee may appoint such Task Groups as it thinks fit. Task Groups shall make report to the Committee or direct to the Executive as required, and Task Group Members shall be entitled to attend and speak at Committee meetings where the work of their Group is under consideration.

Task Groups shall meet in public and may co-opt councillors and non-councillors as may assist them in their work (including councillors who do not sit on the Overview and Scrutiny Committee). Non-councillors shall be eligible for the reimbursement of their expenses.

A permanent Task Group shall consider the financial aspects of the Council's business. The establishment of other standing Task Groups shall be considered.

A dedicated Officer resource shall be made available from within Democratic Services to assist, support and coordinate the work of the Overview and Scrutiny Committee and its Task Groups."

New and creative approaches to scrutiny work will continue to evolve and lessons can be learnt from each review undertaken. It is arguable that a more systematic approach to the selection of topics for in-depth scrutiny work and the rigorous prioritisation of scrutiny work programmes will drive up the quality of outcomes from scrutiny activity.

Who to speak to

The Overview and Scrutiny Committee has a reputation of inviting

- Business cases and options appraisals (and other planning information) for forthcoming major decisions. This information will be of particular use for pre-decision scrutiny; and
- Reports and recommendations issued by relevant ombudsmen, especially the Local Government and Social Care Ombudsman.

As Committees can meet in closed session, commercial confidentiality should not preclude the sharing of information. Authorities should note, however, that the default for meetings should be that they are held in public.

Scrutiny Members should consider keeping this information under regular review. It is likely to be easier to do this outside Committee, rather than bringing such information to Committee 'to note', or to provide an update, as a matter of course.

Shortlisting topics

Approaches to shortlisting topics should reflect scrutiny's overall role in the authority. This will require the development of bespoke, local solutions, however when considering whether an item should be included in the work programme, the kind of questions a Scrutiny Committee should consider might include:

- Do we understand the benefits scrutiny would bring to this issue?
- How could we best carry out work on this subject?
- What would be the best outcome of this work?
- How would this work engage with the activity of the Executive and other decision makers, including partners.

Some authorities use scoring systems to evaluate and rank work programme proposals. If these are used to provoke discussion and

particular groups and individuals to attend meetings to share their experiences across a range of issues as appropriate.

Whilst there is a low level of interest by the general public in the activities of the Overview and Scrutiny Committee, there are opportunities to improve the Council's communications around the work of the Committee, as referred to earlier in this report. In particular, there would be opportunities for communications arising from scrutiny reviews which result in tangible benefits for residents, and indeed outcomes are one of the key considerations in considering topics for scrutiny.

Overview and Scrutiny Members are uniquely placed to invite the public and interested stakeholders to share their experiences and views when a particular issue is the subject of in-depth review by a Task Group or a Committee. Themed meetings, round table evidence sessions, one-off stakeholder events and focus groups can all be used to capture the views of the public. The Council's Scrutiny Tool Kit sets out some of the approaches a Task Group of the Committee could consider as part of any engagement work.

Clearly Overview and Scrutiny is only one mechanism for local authorities to engage with the public and at any one time engagement events commissioned by the Council may be running across a range of service areas. Overview and Scrutiny should complement rather than duplicate these activities.

Information sources

As mentioned earlier, the Council's 'Green Book', which is shared with all Members and published monthly, is considered at each meeting of the Committee. Members can feedback on the 'Green Book' either through the Committee or direct to Officers on its publication, particularly if they have any concerns or questions.

In terms of complaints, the Committee has adopted a monitoring

debate, based on evidence, about what priorities should be, they can be a useful tool. Others take a looser approach. Whichever method is adopted, a Committee should be able to justify how and why a decision has been taken to include certain issues and not others.

Scrutiny Members should accept that shortlisting can be difficult; Scrutiny Committees have finite resources and deciding how these are best allocated is tough. They should understand that, if work programming is robust and effective, there might well be issues that they want to look at that nonetheless are not selected.

Carrying out work

Selected topics can be scrutinised in several ways, including:

- a) As a single item on a Committee agenda
- b) At a single meeting
- c) At a task and finish review of two or three meetings
- d) Via a longer-term task and finish review
- e) By establishing a 'standing panel'

role and receives an annual report on the formal complaints received by the Council. The Committee further receives a report on the Freedom of Information requests received by the Council. Both reports are included in the annual Work Programme.

In addition to this, the Council has established a series of cross party Oversight Panels to oversee the work of key projects, contractors and arm-length companies, such as the Leisure Partnership Board, the Sheerwater Regeneration Delivery and Oversight Panel, Victoria Square Oversight Panel and the Housing Infrastructure Fund Oversight Panel.

Shortlisting topics

The Council has in place a process for agreeing topics for scrutiny, though has not always been fully followed. The process sits within the Council's Scrutiny Tool Kit, a supporting document for scrutiny which was developed from the best practice seen at other Authorities. There is scope for the Committee, and in particular its Task Groups, to apply some of the aspects of the Scrutiny Tool Kit in both selecting and managing scrutiny reviews.

It is therefore **RECOMMENDED That (i) before agreeing a topic for scrutiny review, a scrutiny review topic form is completed by the Member/Officer proposing the review, for agreement at the next available Overview and Scrutiny Committee; (ii) any consideration of topics for scrutiny to highlight the benefits of the work for residents and take into account the Work Programme in assessing the resources necessary; and (iii) the work of each Scrutiny Review Task Group be informed by the practices and approaches endorsed by the Scrutiny Tool Kit.** The Members of Committee can seek the assistance and advice of the lead Officers on Scrutiny from the Corporate Leadership Group and the Legal Team, and the Scrutiny and Democratic Services Officer.

Carrying out work

The way in which a scrutiny review is undertaken should be determined at the point the Committee Members consider the proposal for the review. The Committee Members must consider the resource implications of the review, both financial and time necessary, where the review would sit in the Work Programme and an estimated timetable based on expectations. In doing so, the Committee should also consider whether the topic suggested should be taken through a new Task Group or whether it falls within the areas of responsibility of one of the three standing Task Groups, namely the Economic Development Task Group, the Finance Task Group and the Housing Task Group, or one of the Oversight Panels of the Council.

In terms of the size of any Task Group, the Committee should note that scrutiny has been successfully taken forward through a 'task group' as small as one elected Member. More commonly, however, it would be suggested that a Task Group of 3 to 5 Members should be established, noting that smaller task groups can be more flexible but can also place heavier workloads on the individuals involved. Membership should be determined by the Committee (or Council in May each year) and should seek to be cross-party, ideally with the Members proposed having an interest or detailed knowledge of the topic and the time necessary to commit to the review.

It should be further noted that the Committee can appoint Members not on the Committee to such task groups or co-opt Members from outside of the Authority, particularly where such appointments would bring specialist knowledge or experience to the review. One or more Officer from the appropriate service will support the work of a scrutiny review, and again advice can always be sought from the lead Officers on Scrutiny from the Corporate Leadership Group and the Legal Team, and the Scrutiny and

		<p>Democratic Services Officer.</p> <p>Both the Tool Kit and the Constitution specify that, before the Overview and Scrutiny Committee can formally agree the establishment of a Task Group, a 'Terms of Reference' form must be completed and submitted to the Committee for approval.</p>
<p>Evidence Sessions</p>	<p>Good preparation is a vital part of conducting effective evidence sessions. Members should have a clear idea of what the Committee hopes to get out of each session and appreciate that success will depend on their ability to work together on the day.</p> <p>How to plan</p> <p>Chairs play a vital role in leading discussions on objective-setting and ensuring all Members are aware of the specific role each will play during the evidence session.</p> <p>After an evidence session, the Committee might wish to hold a short 'wash-up' meeting to review whether their objectives were met and lessons could be learned for future sessions.</p> <p>Developing recommendations</p> <p>The development and agreement of recommendations is often an iterative process. It will usually be appropriate for this to be done only by Members, assisted by co-optees where relevant. When deciding on recommendations, however, Members should have due regard to advice received from Officers, particularly the Monitoring Officer.</p> <p>Recommendations should be evidence-based and SMART, i.e. specific, measurable, achievable, relevant and timed. Where appropriate, Committees may wish to consider sharing them in draft with interested parties.</p>	<p>Good planning and preparation are essential to ensure any evidence sessions organised by Scrutiny Task Groups as part of in-depth scrutiny reviews are successful. A clear scope and key lines of enquiry should be established and clearly explained to those invited to give evidence. The Council's Tool Kit for Scrutiny will help in planning for such events.</p> <p>How to plan</p> <p>Scrutiny skills training is provided as part of the Council's Member induction and training programme and further details are outlined by the Council's Tool Kit for Scrutiny.</p> <p>Because the Overview and Scrutiny Committee is a Member led process, the role of the Chairman and Vice-Chairman is an important one. The Chairman has a pivotal role in maintaining the focus of scrutiny activity on issues that are of concern to the residents of Woking.</p> <p>Each Chairman has to possess a range of abilities including good communication, listening, and analytical skills in order to balance the desire for Committee Members to have full and frank discussion about topics, with the need to ensure the Committee makes the best use of its time and resources. The Chairman has to encourage the Committee to operate in an open and robust manner, whilst also making sure that witnesses and Officers are treated with respect and courtesy. It is also important that the</p>

Committees should bear in mind that often six to eight recommendations are sufficient to enable the authority to focus its response, although there may be specific circumstances in which more might be appropriate.

Sharing draft recommendations with Executive Members should not provide an opportunity for them to revise or block recommendations before they are made. It should, however, provide an opportunity for errors to be identified and corrected, and for a more general sense-check.

Chairman summarises to confirm agreement and ownership of actions, decisions, and important points and at key stages refocus discussions.

The importance of reviewing the success of a scrutiny review is highlighted in the Tool Kit, with the objective of drawing out lessons learnt for future reviews. The Overview and Scrutiny Committee will need to make suitable arrangements to monitor the implementation of the recommendations adopted, and request progress reports from Officers and Portfolio Holders.

Developing recommendations

The Tool Kit advised that a draft report based on the Task Groups' finding and recommendations should be prepared by the Chairman of the Task Group and the appointed Lead Officer.

Recommendations should:

- Be based on clear evidence
- Address identified need
- Link to Council priorities
- Demonstrate tangible benefits
- Take account of resources

The final report and any recommendations from the Task Group will be considered by the Overview and Scrutiny Committee before being recommended to the Executive. Any changes to the Council's policies will then need to be dealt with by way of a recommendation to Council.

In the event of there being dissent from the recommendations, a minority report will also be allowed to be forwarded to the Executive, Council or Partner Organisation, proposing an



alternative course of action.