



Overview & Scrutiny Handbook 2018

London Borough of Richmond Upon
Thames Council

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Introduction

This handbook is intended to provide councillors and officers with easily accessible advice, guidance and practical steps on how to achieve successful scrutiny. It is based on experience of scrutiny in Richmond, best practice research and examples from other local authorities.

In May 2018, Richmond Council agreed to move to a new model for Overview and Scrutiny. The new model for Scrutiny is designed to engage more backbench and opposition councillors in executive decision-making as well as to provide a more open approach to the way in which Overview and Scrutiny is undertaken, with all meetings being open for the public to attend, with the exception of agenda items where exempt or confidential information is to be considered. This handbook provides guidance on how this model will operate and contribute to the Council's decision-making process.

If you require further information about this handbook or the Overview and Scrutiny function at the London Borough of Richmond upon Thames please contact us:

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What is Overview & Scrutiny?

Overview and Scrutiny was introduced by the Local Government Act 2000, as part of a modernisation of local government. Councils were required to implement a new, more streamlined structure for executive decision-making. At most Councils, this resulted in the creation of a Cabinet (or Executive) of up to 10 councillors, responsible for taking the day-to-day decisions on running the authority within the budget and policy framework agreed by the full Council. The majority of councillors were given the new role of Overview and Scrutiny, which was designed to act as a check and balance, holding the Cabinet to account and contributing to policy development.

Overview and Scrutiny has the freedom to operate flexibly and adapt to suit local need and desired outcomes provided the statutory requirements are met.

The Role of Overview & Scrutiny

1. Holding to Account

One of Overview & Scrutiny's (O&S) key roles and the reason for its creation was to hold decision-makers in the Council to account. There are a number of areas that O&S looks at when holding Cabinet Members and Senior Officers to account; these include the decisions made, performance management and financial performance. 'Holding to account' means scrutinising matters at different stages in the decision-making process (before decisions are made, before they are implemented and post implementation.)

2. Policy Review and Development

As well as holding the Executive to account, O&S plays a very important role in policy development. This means looking in detail at Council policies to consider whether outcomes are being achieved, contributing to the development of future policies and making recommendations to the Cabinet.

3. External Scrutiny

External scrutiny focuses on the work and delivery of services by external agencies and Council partners (e.g. Metropolitan Police, Health Organisations etc) Some external scrutiny is statutory and must be undertaken, whilst other areas should be scrutinised as relevant to local priorities.

4. Performance Review

Reviewing services to ensure they are delivering against targets and standards, achieving customer satisfaction and value for money.

Principles of Good Overview & Scrutiny

There are four principles of good O&S which are integral to the operation of meaningful and engaging scrutiny.

- ❖ Scrutiny should provide a constructive 'critical friend' challenge to the Executive. O&S is not about opposing the Executive but more about providing constructive challenge to the Executive and in so doing, making sure that the Executive's plans are robust and well thought through.
- ❖ O&S should amplify the voices and concerns of the public. O&S is a good forum for members of the public to get involved with the decision making and policy development of the Council.
- ❖ O&S should be led by Councillors acting independently of the Executive who take responsibility for their role.
- ❖ O&S should drive improvement in public services and take an evidence-based approach.

The most important element of successful O&S is **adding value** to the issue being scrutinised. This value can take many different forms.

There are two main types of value that O&S can add:

Outcome Value is measuring what difference O&S has made. This could involve making good recommendations and having them implemented, however not all pre-decision O&S or scrutiny work more generally will lead to recommendations, so providing challenge is itself an outcome.

Process Value is measuring the value of the O&S work itself. Not all scrutiny work will produce earth shattering recommendations; however, this could be because there were no necessary recommendations to make. Value can then be measured in terms of process value. Were the right people engaged, was the work timely, were positive outcomes achieved and was the work valued by all relevant parties.

The Legal Framework

The Local Government Act 2000 outlines in detail the responsibilities which must be discharged by Overview and Scrutiny, through a minimum of one Committee as part of the Executive Model. In addition to these, the Council has additional statutory scrutiny functions which include:

1. Scrutinising local health services in accordance with the Health and Social Care Act 2001 and any consequential regulations, directions or guidance issued by the Secretary of State.
2. Crime and Disorder Scrutiny (Sections 19 – 22 of the Police and Justice Act 2006.)
3. Considering Councillor Calls for Action as appropriate (Section 119 of the Local Government and Public Involvement in Health Act 2007.)
Councillor Calls for Action are single ward issues that a councillor wishes O&S to consider. They are rare as they are intended to be a last resort and the councillor must try and resolve the problem by every other available means first.
4. Holding an Officer to account as required by the Petitions Legislation (Sections 10 – 22 of the Local Democracy, Economic Development and Construction Act 2009)
Holding senior officers to account when called upon to do so by the organiser of a petition, reviewing the adequacy of the response to the petition.
5. Flood Risk Management Overview and Scrutiny (England) Regulations 2011

These functions can be discharged flexibly as determined by local priorities and need.

What Overview & Scrutiny Can't Do

O&S can only influence decisions, not make them. O&S cannot deal with individual queries, complaints or concerns about Council services. These must be passed on to the appropriate Council directorate or be dealt with through the Council's complaints procedure.

Overview & Scrutiny at Richmond upon Thames

In May 2018, Richmond Council adopted a new model for Overview and Scrutiny. The new model is designed to engage a majority of councillors in decision making as well as to provide a more open approach to the way in which Overview and Scrutiny is undertaken, with the majority of meetings being open for the public to attend. The Council has four thematic Overview and Scrutiny committees which are aligned to Cabinet portfolios:

- [Adult Social Services and Health Overview and Scrutiny Committee](#)
- [Children's Services and Schools Overview and Scrutiny Committee](#)
- [Finance, Policy and Performance Overview and Scrutiny Committee](#)
- [Housing, Community Safety and the Environment Overview and Scrutiny Committee](#)

These Overview and Scrutiny Committees consider all key or significant decisions that are due to be considered by the Council's Cabinet. A key decision is defined as: a decision which is likely to result in significant expenditure or savings of over £500,000, or a decision which is likely to be significant in terms of its effects on communities living or working in two or more Wards.

The model has a strong emphasis on pre-decision Scrutiny, allowing councillors to play an active part in influencing, improving or reshaping proposals before they are considered by the Cabinet. The O&S committees influence decision-makers by probing, investigating, encouraging, persuading, reporting and recommending. To help fulfil this role, they can require information from Cabinet members or council officers, either in person or in writing.

Non-key decisions are considered by the Cabinet, however if there is a non-key decision which an O&S councillor feels is of significant interest, a request can be made for this decision to be considered by the relevant O&S Committee.

The remit of Overview & Scrutiny Committees is detailed in their terms of reference (which can also be found in the Council's Constitution):

THE FOLLOWING TERMS OF REFERENCE ARE COMMON TO ALL OVERVIEW AND SCRUTINY COMMITTEES

Holding the Executive to Account:

1. To consider forthcoming decisions relating to the discharge of Executive functions before those decisions are determined by the Cabinet and make recommendations to the Cabinet or Cabinet Member accordingly.
2. To be able to 'call-in' non-urgent Key Decisions made by the Cabinet, a Cabinet Member or an officer but not yet implemented and make recommendations accordingly to the decision-maker. Specifically, the Committee can ask the Executive to reconsider any such decision, or exceptionally, refer it to full Council (if the Committee believes it to be

contrary to the Policy Framework/Budget or considers that it was a Key Decision but not dealt with as such by the Executive).

3. To consider decisions relating to the discharge of Executive functions after they are put into effect.
4. To consider the Forward Plan and comment as appropriate to the decision-maker on Key Decisions (before they are taken by the Executive).

Performance Review:

5. To conduct reviews of policy, performance, services or aspects of a service to ensure they are delivering against targets and standards, achieving customer satisfaction and value for money.
6. To identify areas of concern to the community within their remit and to instigate an appropriate review process.

Policy Review and Development:

7. To contribute to the development of existing and future policies and to consider whether outcomes are being achieved and making recommendations to the Executive as necessary.

External Scrutiny:

8. To review collaborative working arrangements with statutory and voluntary partner agencies. To scrutinise the work and delivery of services by external agencies and Council partners (e.g. Police, Health organisations etc)

Engaging Local Residents:

9. To ensure that the local community is consulted, engaged and involved in the Council's decision-making process.

Task and Finish Groups

All Committees have the power to initiate one or two 'short-term' in depth studies lasting two to three meetings or to undertake one major (six month) study at any point in time.

ADULT SOCIAL SERVICES AND HEALTH OVERVIEW AND SCRUTINY COMMITTEE

Membership

9 Councillors, appointed on a proportional basis by Council and non-voting expert witnesses. (to be appointed by the Committee in accordance with Overview & Scrutiny Procedure rules).

Terms of reference

The Committee's responsibilities will be to scrutinise all functions falling within the remit of:

- a) the **Cabinet portfolio for Adult Social Services and Health**, this portfolio includes Public Health.
- b) and the **Cabinet portfolio for Arts, Culture and Sport**.

CHILDREN'S SERVICES AND SCHOOLS OVERVIEW AND SCRUTINY COMMITTEE

Membership

9 Councillors, appointed on a proportional basis by Council, 2 voting church representatives, 2 voting parent governor representatives (to be appointed by the Council in accordance with Overview & Scrutiny Procedure Rules).

Non-voting expert witnesses to be appointed by the Committee in accordance with Overview & Scrutiny Procedure Rules.

Terms of Reference

The Committee's responsibilities will be to scrutinise all functions falling within the remit of:

- a) the **Cabinet portfolio for Children's Services and Schools**

HOUSING, COMMUNITY SAFETY AND THE ENVIRONMENT OVERVIEW AND SCRUTINY COMMITTEE

Membership

9 Councillors, appointed on a proportional basis by Council and non-voting expert witnesses (to be appointed by the Committee in accordance with Overview & Scrutiny Procedure Rules).

Terms of Reference

The Committee's responsibilities will be to scrutinise all functions falling within the remit of:

- a) the **Cabinet portfolio for Housing and Community Safety**
- b) the **Cabinet portfolio for Transport, Streetscene and Air Quality**
- c) and the **Cabinet portfolio for Environment, Planning and Sustainability**

FINANCE, POLICY AND PERFORMANCE OVERVIEW AND SCRUTINY COMMITTEE

Membership

9 Councillors, appointed on a proportional basis and non-voting expert witnesses (to be appointed by the Committee in accordance with Overview & Scrutiny Procedure Rules).

Terms of Reference

The Committee's responsibilities will be to scrutinise all functions falling within the remit of:

- a) the **Cabinet portfolio for Business, Economy and Employment**
- b) the **Cabinet portfolio for Finance and Performance**
- c) and the **Cabinet portfolio for Equality, Communities and the Voluntary Sector**

Non-Voting Expert Witnesses and other Contributors

The O&S function can draw on the expertise, skills and knowledge of those external to the Council to support its work at any time. This could include service users, residents via focus groups, subject experts, officers/members from other local authorities or representatives from national organisations including professional bodies, academic institutions and private organisations.

Public Involvement: Scrutiny also provides opportunities for community involvement and democratic accountability. Engagement with service users and with the public can help to improve the quality, legitimacy and long-term viability of recommendations made by Scrutiny.

Task and Finish Groups

Task Groups are small groups of councillors set up to examine specific issues in detail on behalf of the council. [Previous reviews](#) have covered issues including domestic abuse, cemetery space and development of residential basements.

Each O&S Committee has the option of initiating one 'short-term' in depth study lasting two to three meetings or to undertake one major (six month) study at any one point in time.

Call-in of Decisions

From time to time, the Cabinet may take a decision that causes concern to some councillors to such an extent that they believe the decision should be changed. The Local Government Act 2000 requires every Council to establish a mechanism which allows for Executive decisions made but not yet implemented to be 'called in' for consideration by scrutiny. This includes decisions taken by Cabinet (collective or individual) or decisions delegated to Chief Officers.

Call-in is intended to be used in exceptional circumstances for decisions believed to be contrary to the authority's decision-making principles. By its nature it acts as a delaying mechanism.

When requesting that a decision be called-in, councillors are required to present their reasons and any alternative courses of action or recommendations they wish to propose. Two voting members of a relevant O&S Committee are required to call-in a decision. The criteria for call-in are detailed in the Council's Constitution.

Under the new model of scrutiny adopted in May 2018, it is expected that the number of executive decisions called-in will reduce because all Key and other significant Executive decisions will have already been considered by one of the

Overview and Scrutiny Committees – however, the four O&S Committees will still have the power to call-in decisions.

Exceptions: In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. Namely two voting Members of the relevant Overview and Scrutiny Committee are needed for a decision to be called in.

In addition:

- (i) Cabinet decisions to make recommendations to Council in respect of the budget or policy framework may not be called in;
- (ii) Executive decisions in respect of matters upon which the relevant Overview and Scrutiny Committee have already been consulted or on which they have not responded to an opportunity to scrutinise the matter may not be called in unless a majority of the Members of the Committee so request.

Call-in and Urgency:

The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent.

A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interest or could lead to an (increased) risk of damage to people or property.

Councillor Call for Action

Councillor Call for Action allows any councillor to refer matters of concern within the community to an Overview and Scrutiny Committee. The aim of this measure is to provide councillors with additional powers that enable them to respond to local community concerns which have proved difficult to resolve.

Making Overview & Scrutiny Work

People involved and their roles and responsibilities.

Effective scrutiny is based on all the key components of the organisation, its partners and the local community working together to seek improvements in the outcomes for Richmond. It is important that all the key groups understand what role they play, how to exercise their responsibilities and where to go for guidance and assistance.

The key individuals and groups who are involved in the support and delivery of the scrutiny process are:

- Scrutiny Members
- Scrutiny Chair/Vice Chairman

- Cabinet Members
- Senior Officers
- Scrutiny & Governance Team
- Statutory Education Representatives
- Other Contributors

Relationship with the Cabinet

A good working relationship between the Cabinet and Scrutiny is very important to the success of the scrutiny process. It should be a constructive relationship, which respects the role of each body and promotes parity of esteem. Scrutiny members should feel able to robustly challenge the Cabinet and hold Cabinet Members to account.

In turn, the Cabinet should encourage and welcome the contributions and input of O&S Committee's. Scrutiny has the power to require a Cabinet Member to attend one of its meetings to explain and answer questions about their decisions, plans and performance. Cabinet members are always welcome at scrutiny meetings, but regular attendance is not required – it is expected that Cabinet Members will usually attend only on invitation.

Scrutiny Member Toolkit Skills

Questioning Techniques

Asking good questions is an important skill of a Scrutiny member whether sitting in a Committee meeting or on a Task and Finish Group. Scrutiny makes recommendations based on evidence and to get the evidence you need you need to ask the right questions.

Preparation: As with anything, preparing properly is the key to asking good questions. Some tips include:

Read the relevant papers – This ensures that you don't cover ground already explained in the report and waste time but also allows you to think about what questions you might want to ask beforehand. The report may raise something you haven't thought of.

Know what you want – If you know the information you want to get out of a meeting before you begin, you are more likely to get that information. If you don't know what you're trying to achieve you're unlikely to stumble upon it accidentally.

Plan your questioning in advance. When a large group is asking questions, it is a good idea to plan ahead so that the questioning is structured. This helps to make sure that the questions on one particular facet of the subject are asked at the same time to really get the most out of the line of question. A scatter-gun approach that keeps switching between issues is likely to only scratch the surface of the subject. It might be useful to allocate questions beforehand to members in order to structure the discussion.

Communication: Questioning is a form of communication and like all communication there is not a one size fits all approach, there are however some basics you may want to keep in mind;

Make sure the person being questioned is comfortable and at ease, this will lead to them being more open and discursive.

Engage with others. Scrutiny is a collaborative process, work with the other members and those you are questioning.

Make sure you're in the right forum. When a Task and Finish Group is being planned think about where the best place to ask questions is, will a person be comfortable in a Committee meeting, might they be better able to illustrate their answers in a different setting, would leaving the meeting room help to identify questions that need asking.

Remember not everybody is a Cabinet Member or senior officer. People need to be handled differently, Members of the public not used to speaking to Scrutiny members may be nervous. Also keep in mind some people have given up their free time to speak to you when they are under no compulsion to do so. If you want to speak to them in the future don't give them reason not to want to come back. Make sure you encourage witnesses; this is everyone's responsibility, not just the Chairman.

Communication is a two-way street; listen to what is being said to avoid duplicating questions and make sure you understand the answers properly. Keep in mind what you prepared; have you got the answers you were looking for? Did those answers raise more questions?

When listening to a speaker consider the following:

Be mindful of the speaker's feelings

Maintain eye contact

Project positive and reassuring body language such as smiling or nodding in agreement (where appropriate)

Make sure you know why the information is relevant to the scrutiny you're undertaking

Think about, and note down, questions you may want to ask after the speaker has finished.

Questioning skills

Having prepared properly and considered what information you want, phrase the question around that.

Plan the second and third question as well as the first one. Know what you want to follow up on once you have your answer but be prepared to react to the information you're given.

Make sure your questions engage the person being questioned. Where possible try to ask open questions that will elicit more than a one-word response to establish a dialogue and rapport with the interviewee. Although remember if you just want a quick and simple fact, a closed question might be appropriate.

Making Good Quality Recommendations

Good recommendations are similar to objectives and targets, in that they are future actions required to improve a situation. They should follow the SMART concept.

They should be:

Specific about what needs to be done or achieved.

Measurable, enabling achievement against the recommendation to be quantified.

Achievable, and based on a realistic appraisal of what can be done

Relevant in that the person recommended to take action the Outcome required.

Time-based so that it is clear when the recommendation should be achieved by.

Recommendations should also include as applicable, relevant information relating to financial, legal or procurement implications to demonstrate that in making the recommendation, Scrutiny is aware of the implications and deems them to be reasonable.

Where recommendations are aspirational, or ambitious in nature, this should be acknowledged by the O&S Committee and they should be written in a way requested that a matter be further explored by the Executive with a view to determining feasibility for implementation.

Good recommendations are not:

Comments on how the review proceeded;

Vague about what should be achieved or when this should be done by.

Unclear about who should be taking action;

Requiring actions that cannot clearly be measured as contributing to achieving the recommendation.