

Maidstone Borough Council

Corporate Services Overview and Scrutiny Committee



Keeping an eye on
Maidstone

Overview and Scrutiny Function Review

Municipal Year 2009-10

Committee Membership:

Councillor Paulina Stockell (Chairman)
Councillor Derek Butler (Vice-Chairman)
Councillor Allan Bradshaw
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Councillor David Marshall
Councillor Pat Marshall
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Recommendations

To the Corporate Services Overview and Scrutiny Committee

It is recommended that:

- a) each Overview and Scrutiny Committee develops a set of 'ground rules' at the start of the year to outline the expectations on each committee member, including with regard to party politics and cross-party recommendations;
- b) recommendations arising from pre-decision scrutiny will be made on the basis that they will highlight issues to be considered by the cabinet or cabinet member to ensure evidence-based, informed decisions, but will not prejudice committee members with regard to the final decision;
- c) all overview and scrutiny reports will include clear evidence to support recommendations, including financial details as appropriate;
- d) updates be provided to each committee on a quarterly basis outlining progress on that year's recommendations;
- e) the Scrutiny Coordinating Committee be strengthened to ensure better management and coordination of committee work and working groups;
- f) suggested questions and briefing notes be provided for major items at overview and scrutiny committee meetings;
- g) briefing notes include links to websites for councillors to carry out further research if required;
- h) a quarterly scrutiny newsletter be sent to all members outlining key successes and updates on reviews;
- i) an annual 'scrutiny skills' training session be held for all members, to include questioning skills and 'what is overview and scrutiny?';
- j) opportunities for chairman skills training be highlighted to all overview and scrutiny chairmen, and the take up of this training be monitored by the Scrutiny Coordinating Committee;
- k) a one-page reference sheet on scrutiny and powers available to members be produced by the overview and scrutiny team;
- l) a list of parish councils and community groups be maintained by the scrutiny section in order to obtain local views on borough-wide issues being reviewed;
- m) public pre-meetings be held when complicated or technical issues are to be discussed to ensure discussion is constructive rather than merely fact-finding;

- n) informal time-limits for agenda items be approved by the chairman and sent to all committee members to focus discussion and provide information for witnesses;
- o) chairmen work with the overview and scrutiny team to identify opportunities for workshops and informal-style meetings to facilitate open discussion and creative thinking;
- p) all meetings remain public, however holding meetings in a format conducive to constructive discussion should take preference over web-casting to ensure positive results for residents;
- q) opportunities to hold meetings across the borough should be actively sought. These meetings should be public but not necessarily web-cast due to the additional staffing requirements for this;
- r) work programming workshops be held by each committee individually, with officers relevant to the terms of reference of that committee attending those workshops to discuss forthcoming work and any ideas of the committee;
- s) performance indicators, customer complaints and press articles be used to inform work programming, alongside existing methods of press releases and direct contact with partners;
- t) cabinet members should submit a written statement of priorities and plans for the municipal year to the June meeting of each overview and scrutiny committee, rather than attending in person;
- u) the PAPER analysis method used by South Cambridgeshire District Council to priorities topics for review be used as a tool for work programming, with the final decision on review topics remaining with the committee;
- v) the role of overview and scrutiny officers be clarified to members joining overview and scrutiny;
- w) officers receive training and advice prior to attending overview and scrutiny committee meetings;
- x) reports on the overview and scrutiny committee budget be considered by the Scrutiny Coordinating Committee on a quarterly basis;
- y) a single-sided officer guide to overview and scrutiny be circulated to all heads of service and unit managers and followed by a presentation on the role of overview and scrutiny to unit managers;
- z) councillors highlight any particular areas of concern to officers prior to committee meetings to ensure the officer can investigate these and provide detailed responses at the meeting; and
- aa) formal feedback from officers and other witnesses be sought following committee meetings and workshops on the quality of scrutiny and the

results be reported to the Scrutiny Coordinating Committee on a quarterly basis to inform training and improve meetings.

To the Council

It is recommended that:

- bb) the chairman and vice-chairman of each overview and scrutiny committee come from different political groups; in the case of a coalition cabinet not involving all parties, the chairman and vice-chairman should not both come from parties involved in the coalition;
- cc) the chairman of the Corporate Services Overview and Scrutiny Committee comes from a party not represented on the executive, except where the executive is an all-party coalition in which case a vote will take place for which all committee members are eligible;
- dd) councillors calling in a decision should be subject to scrutiny at the call-in meeting;
- ee) councillors calling in a decision should submit a short written statement outlining their reasons for call-in at least 24 hours prior to the meeting;
- ff) there are four overview and scrutiny committees which all have the option of creating working groups where appropriate, and the terms of reference be revised as outlined at Appendix B;
- gg) meetings are held monthly, except for May, with flexibility to add or cancel meetings as appropriate;
- hh) any non-executive member be allowed to substitute on any committee not requiring prior training, rather than having nominated substitutes;
- ii) overview and scrutiny committees consist of 7 members;
- jj) if the chairman is unable to undertake the substantive role for three months or more then the allowance would be reallocated to the vice-chairman for that period;
- kk) the Forward Plan of Key Decisions be amended to include non-key decisions and cover at least 6, but up to 12, months. Cabinet members and directors should add items to this as soon as they are known to enable pre-decision scrutiny to take place as early as possible; and
- ll) the level of dedicated officer support for overview and scrutiny remain at its current level of 2.4 FTE officers.

To the Learning and Development Department

It is recommended that:

mm) new member training include information on the opportunities available to take part in decision-making, request information from officers and challenge the cabinet; and

nn) a larger portion of the new member training be dedicated to overview and scrutiny.

To Group Leaders

It is recommended that:

oo) group leaders should take overall responsibility for their party members fulfilling their roles and responsibilities on overview and scrutiny committees.

DRAFT

1. Terms of Reference

1.1 The terms of reference for this review were agreed by the Corporate Services Overview and Scrutiny Committee at its meeting on 7 July 2009 and are as follows:

To consider:

- Strengths and weaknesses in the existing service in terms of both overview *and* scrutiny.
- Alternative scrutiny structures.
- Support for scrutiny
- Cost of the service.
- Membership and chairmanship.
- What is the role of councillors and what is expected of them?
- What is the role of officers – scrutiny team and others - and what is expected of them?
- Methods of work programming.
- Community engagement.
- Overview and Scrutiny Procedure Rules.
- Implications of Councillor Call for Action and use of petitions.
- Measuring the impact of scrutiny.
- Relationship between Cabinet and Scrutiny.

To establish:

- An effective scrutiny structure (either new or maintaining current structure).
- What support is necessary for the scrutiny function.
- Appropriate Overview and Scrutiny Procedure Rules.

2. Methodology

- 2.1 The overview and scrutiny team carried out face to face interviews with 26 councillors (both backbench and cabinet members). 13 Liberal Democrats, 11 Conservative members and 2 Independent members were interviewed and the transcripts of these discussions were then agreed with the councillors afterwards. In order to encourage as much open discussion as possible, it was agreed that quotes would only be attributed to particular political groups rather than individual councillors; it was felt important to identify political groups to show a balance of evidence and to place the quotes in some political context.
- 2.2 Councillors also undertook their own research into how scrutiny operated in other local authorities, particularly with regard to the structures that they operated. This information was then used to inform a workshop, which was open to all councillors, looking at potential scrutiny structures for Maidstone.
- 2.3 The overview and scrutiny team carried out desktop research to support the review, identifying the legislative framework and best practice for overview and scrutiny drawing on a range of resources, most significantly work by the Centre for Public Scrutiny (CfPS).
- 2.4 A survey was distributed to all senior officers within the council to establish the level of understanding regarding the role of overview and scrutiny and the ways in which those officers felt that overview and scrutiny could contribute positively to the work of the council. Again at the request of the committee, these surveys were kept confidential in order to encourage frank responses.

Overview and scrutiny is potentially the most exciting and powerful element of the entire local government modernisation process. It places members at the heart of policy-making and at the heart of the way in which councils respond to the demands of modernisation. In addition, overview and scrutiny is the mechanism by which councils can achieve active community leadership, good governance and by which councillors can become powerful and influential politicians.

C. Copus et al (2002) p.7

3. Introduction & Background

- 3.1 When overview and scrutiny was introduced in 2001, a result of the local government reorganisation invoked by the Local Government Act 2000, it was seen as a major opportunity for backbench councillors from all political parties within an authority to contribute to policy development and act as a 'check and balance' to the new executive.
- 3.2 Maidstone Borough Council quickly gained a reputation for strong overview and scrutiny investigations, high profile reports and positive results, leading to the then-Assistant Director of Scrutiny and Change Management, William Benson, writing the national CfPS "Overview and Scrutiny Guidance for District Councils" in 2004.
- 3.3 There are a number of reasons for this initial success, including strong chairmen, dedicated officer support and parity of esteem with the cabinet.
- 3.4 There has been growing concern over the past 2-3 years that overview and scrutiny is no longer as effective as it once was. Part of this was attributed by councillors to a decrease in the parity of esteem with the cabinet: "I think there needs to be a reaffirmation of the independence of overview and scrutiny, and I think that needs to be understood by the administration, by senior officers and by scrutiny members, that there is a separation of powers within the council between scrutiny and the executive, and essentially scrutiny is very powerful.¹" Many councillors also put the perceived problems down to the increasing influence of party politics (both on the side of the ruling party and the opposition), and this will be explored further in Section 6. However, at the start of the 2009-10 municipal year it was also agreed that as the function had been in place for 8 years, an in-depth review was both timely and appropriate.

¹ Councillor interview (Lib Dem)

4. Overview and Scrutiny - Legislative Framework

- 4.1 Since 2000, local authorities in England and Wales, with few exceptions², have abolished decision-making subject committees and replaced them with executive arrangements, placing the decision-making powers in the hands of a cabinet. The overview and scrutiny function was established by the Local Government Act 2000 as part of the government's modernisation of local government. The Act gave councils the choice between three executive arrangement political decision-making models³, these being: Leader and Cabinet Executive; Mayor and Cabinet Executive; and Mayor and Council Manager Executive. The third model was later removed⁴. Maidstone Borough Council adopted the Leader and Cabinet system in May 2001.
- 4.2 Local authorities operating executive arrangements are required to set up at least one overview and scrutiny committee in order to hold the individuals or bodies responsible for decision-making to account in public, and to advise and contribute to evidence-based policy development in the council. Section 21 of the Local Government Act 2000 stipulates that overview and scrutiny committees must be given the power to:
- Make reports and recommendations, either to the executive or to the authority, on any aspect of council business;
 - Make reports and recommendations on other matters which affect the authority's area or the area's inhabitants;
 - Review or scrutinise any executive decisions which have been made and, where necessary, recommend that they are reconsidered by those responsible; or else to arrange for the authority to review the decision and, where necessary, ask those responsible for the decision to reconsider; and
 - Obligate officers and members of the executive to appear before it and invite any other person to appear before it.
- 4.3 The Act further stipulates that any member of an overview and scrutiny committee is able to ensure that any relevant matter is put on the agenda and discussed at a meeting of the committee.
- 4.4 Since 2000, the roles and responsibilities of overview and scrutiny committees have expanded significantly. Two recent expansions to their power have been as a result of provisions within the Police and Justice Act 2006 and the Local Government and Public Involvement in Health Act 2007.

² A Non-Executive Arrangement Model, commonly referred to as the "Fourth Option" or "Alternative Arrangements", was made available to smaller Local Authorities with a population less than 85,000 on 30 June 1999 to enable them to retain a streamlined version of the traditional committee system. There was also a requirement to have a separate Scrutiny Committee to scrutinise decisions made.

³ A Non-Executive Arrangement Model, commonly referred to as the "Fourth Option" or "Alternative Arrangements", was also available to Local Authorities and is explained in further detail in footnote 2.

⁴ by the Local Government Involvement in Health Act 2007.

- 4.5 Section 19 of the Police and Justice Act (PJA) 2006 requires each local authority to designate a crime and disorder committee to scrutinise the work of Crime and Disorder Reduction Partnerships; in local authorities operating executive arrangements, this must be an overview and scrutiny committee. As part of this, it also gave the public the opportunity to ask a ward member to consider a local crime and disorder issue, and for the ward member to refer it on to the crime and disorder committee. Guidance on the implementation of Section 19 of the PJA 2006 recommends that local authorities use the protocols in place for Councillor Calls for Action (CCfAs – see section 4.6) to deal with these.
- 4.6 The Local Government and Public Involvement in Health Act 2007 included provisions that affected how overview and scrutiny committees worked to encourage greater neighbourhood scrutiny, including powers to resolve local problems through CCfAs. CCfAs were introduced to bolster councillors' ability to champion local concerns by providing all members with the opportunity to ask for discussions at scrutiny committees on issues where local problems had arisen and where other methods of resolution had been exhausted. This Act also enhanced the role of overview and scrutiny by placing a duty on the authority or executive to respond to the reports and recommendations of the overview and scrutiny committee. The Act expanded the work of overview and scrutiny by enabling joint overview and scrutiny committees to review and report on matters related to Local Improvement Targets with the county council.
- 4.7 The Improvement and Development Agency (IDeA) highlights that:
- "Scrutiny is carried out in many different ways throughout the country, varying significantly from council to council. Different councils support the function in varying ways. None of these is necessarily right or wrong – what works well in one council might prove disastrous if transplanted unchanged to another. The important thing to remember is that scrutiny's successes are often bound up with the attitudes of the executive and its partners to the idea of public accountability."⁵*

⁵ Improvement and Development Agency *Overview and Scrutiny*
<http://www.idea.gov.uk/idk/core/page.do?pageId=75905> [Accessed 07/12/09]

5. Overview and Scrutiny at Maidstone

5.1 At the meeting of the Corporate Services Overview and Scrutiny Committee on 9 June 2009, "members of the committee felt that it was opportune to review the overview and scrutiny function as it had been in place for eight years. A number of members raised concern that enthusiasm for overview and scrutiny amongst members was diminishing and felt it was therefore important to reinvigorate the process to ensure it remained an effective tool. Suggested aspects of the overview and scrutiny function that could be reviewed included financing, the partnership with Tunbridge Wells Borough Council, aims of scrutiny and scrutiny of the cabinet.⁶"

"I still think we're somewhere amongst the best in the country."

Councillor interview (Lib Dem)

5.2 During interviews with councillors, many emphasised their own belief in overview and scrutiny ("I am a complete supporter of scrutiny and think it provides a useful service which enables us to look at what we provide to residents and actually see how we can improve it⁷") but acknowledged that this was not a shared view amongst all members:

"I think some councillors, and more councillors than we'd want to admit, would probably say 'I don't really care about scrutiny, I'm just turning up because they need a seat in the room'. There are councillors on my committee this year who I think really get it, they ask good questions – brilliant. But there's not enough of them.⁸"

"I don't think everybody sees that [scrutiny makes an important contribution]. I think that's what we're trying to do with this review. I think scrutiny is vitally important and I do think it's as important to the council as a select committee is to government.⁹"

5.3 When questioned on scrutiny's contribution to the management of the authority and the quality of life in the community, members agreed that it did make a contribution, however opinions on the extent of this contribution and how other people saw scrutiny were varied.

"Personally, I think it does contribute to the good management and quality of life of residents. But whether it's vital, I'm not totally convinced.¹⁰"

"I do think that it makes an important contribution; I don't think it's *seen* as doing that.¹¹"

⁶ Minutes of the Corporate Services Overview and Scrutiny Committee held on 09/06/09

⁷ Councillor interview (Con)

⁸ Councillor interview (Con)

⁹ Councillor interview (Ind)

¹⁰ Councillor interview (Con)

¹¹ Councillor interview (Lib Dem)

"It's not seen as important enough, it's not seen as useful enough, it's not seen as positive enough...I just don't think there's enough understanding of what scrutiny can be."

Councillor interview (Con)

5.4 An important theme was that of the role of councillors in making overview and scrutiny work and ensuring that it was highly respected:

"I suspect quite a few [councillors] probably think [scrutiny]'s a waste of time. I don't feel that way because I think it should be

valuable and as a member I would want it to be valuable. Do I feel that it's valuable all the time? No, I don't, but that may be more a failing on us [councillors] because it's always easy to blame somebody else, isn't it? But it may be a failing on our part, either to choose the topics well and be clear why we want to do things, going about scrutiny the right way, the right process, asking the right questions.¹²"

"If councillors are up to it, it has some value.¹³"

5.5 Senior officers were also positive about the potential of overview and scrutiny to make a positive contribution to the council and residents, highlighting the importance of transparent challenge to decision-making. However officers did emphasise the need for scrutiny to take into account resources when making recommendations as where this did not happen, recommendations were unlikely to be implemented, diminishing the impact of overview and scrutiny.

5.6 Overview and scrutiny at Maidstone Borough Council receives consistently good feedback from external witnesses, and is frequently approached by other local authorities for advice or the opportunity to attend a committee meeting. Comments received from external witnesses and visitors over the past year include:

"The role of scrutiny is to provide a robust counter balance to the governance by cabinet. Balance is vitally important, particularly in an elected body."

Councillor interview (Ind)

"I found it really refreshing and interesting to have a very open and challenging/questioning meeting."

"I was impressed with the courtesy and respect I was afforded by the committee."

"The questioning was thorough, relevant and detailed. Members generally demonstrated a good grasp of the topic even though it is not necessarily their field of expertise, and genuine interest in the subject."

Some comments noted that councillors needed to be realistic in their expectations for reviews, or that some further background knowledge was

¹² Councillor interview (Lib Dem)

¹³ Councillor interview (Lib Dem)

sometimes needed to ensure that questions were relevant, however all witnesses who returned feedback questionnaires agreed that overall, the meetings that they attended were constructive.

- 5.7 Scrutiny at Maidstone has also performed consistently well in terms of external verification. In 2008, the section was “highly commended” in the Use of Resources category at the CfPS Good Scrutiny Awards , whilst the joint Maidstone and Tunbridge Wells Scrutiny Team won the Team of the Year award at the 2009 Good Scrutiny Awards¹⁴. The council’s Use of Resources assessment from the Audit Commission in 2008 noted:

“The council has a very sound scrutiny process and this is currently being provided to another Kent authority under a partnership arrangement. This arrangement is operating successfully and is regarded as notable practice.”



- 5.8 The following sections identify those areas in which overview and scrutiny is working, where there are areas for improvement, and what changes can be made to ensure that overview and scrutiny regains the confidence and respect that it was perceived to have in its early years of operation.

¹⁴ Appendix A – Award Poster

6. Politics

6.1 Throughout the interviews with councillors carried out by the overview and scrutiny team as part of this review, the overwhelming theme was that of the increasing impact of party politics on scrutiny: "I think that scrutiny was far less political [when it first started]. If you looked at where members sat, it wasn't even in party groups."¹⁵

6.2 This can, at least in part, be attributed to the shift in political control following the 2008 borough council election; 2008-09 was the first municipal year since scrutiny's inception that there had been a party with overall control of the council, meaning that the political parties no longer needed to work together so closely to conduct the business of the council.

"Maidstone has been an authority that prior to the current administration has been under no overall control for a great many years. I think that this changes how the council works in quite a dramatic way. Some of the concerns that have been raised around the executive and its political opponents and the use of scrutiny as a political tool are minor defects that have been a result of Maidstone, for a long time, being run on more of a consultative basis."¹⁶

6.3 While there "is inevitably a difference when you move from being a hung council to a council that is not...that is inevitably going to make it more political"¹⁷, most members stated that they had noticed an increasingly *negative* impact of party politics on overview and scrutiny which was diminishing the perceived value of the process.

6.4 Party politics can have both a positive and a negative impact on overview and scrutiny, depending on the ways in which the cabinet and overview and scrutiny choose to approach their respective roles; some of the major points arising from the research are outlined in the rest of this section.

6.5 Politics and Scrutiny

6.5.1 As overview and scrutiny committees are made up of politicians, elected through a political process and working in a political organisation, it is inevitable that party politics will play a role in overview and scrutiny. The CfPS "challenge[s] the view that overview and scrutiny can or should be apolitical...it is unrealistic to expect members of a particular political party to sideline their political values, beliefs and commitments when they attend an overview and scrutiny meeting. Nor should they be expected to – differences in values and value-based priorities and programmes are an essential ingredient of the local democratic process"¹⁸.

¹⁵ Councillor interview (Lib Dem)

¹⁶ Councillor interview (Lib Dem)

¹⁷ Councillor interview (Lib Dem)

¹⁸ Leach, S (2009) *Party Politics and Scrutiny in Local Government: Clearing the Hurdles* Centre for Public Scrutiny p.14

6.5.2 The existence of different political opinions can add great strength to an overview and scrutiny committee review; indeed, the Clerk to the Communities and Local Government Select Committee highlighted that “the value of a select committee inquiry was that it produced a consensual, cross-party report.”¹⁹”

The process of forming agreements and collective judgements and recommendations should be acknowledged as critical to effective scrutiny...this will include accommodating different perspectives and disagreements – and being aware of the need to consider minority views.

Centre for Public Scrutiny (2004)

6.5.3 Virtually all members, when asked what role politics should play in scrutiny, said that it should play no part, with councillors noting: “you shouldn’t feel committed to vote politically in a scrutiny meeting, because we’re there, or I’m there, to try to do the best I can with the people I represent and for the wider Maidstone.”²⁰” Despite this, many members felt that political parties in the council were allowing party politics to dominate overview and scrutiny, and these themes are explored below.

6.6 The Ruling Party

6.6.1 Professor Steve Leach, in his work on party politics and scrutiny in local government, states that “there are many devices which a majority party (or, to a lesser extent, a coalition) can operate to render the overview and scrutiny function largely or wholly ineffective:

- Marginalisation: if a cabinet feels threatened, for whatever reason, by the overview and scrutiny process, it can (virtually) ignore it.
- Manipulation: There is a rather more subtle approach on the part of the cabinet, which involves a superficially positive attitude to the work of overview and scrutiny, but seeks to control what it does in a way which steers its activities into relatively ‘safe’ (as far as the cabinet is concerned) activities.
- Minimising the scope for challenge from opposition members: The main potential threat is via the call-in mechanism. Call-ins generated by opposition members can be avoided by the use of a clause in the constitution which sets impossible conditions for opposition members seeing to initiative a call-in... [or] to restrict them to ‘key decisions’.²¹”

6.6.2 Some Members felt that there was an element of “manipulation” at Maidstone:

¹⁹ Corporate Services OSC, Minutes of the Meeting Held on 01/12/09

²⁰ Councillor interview (Ind)

²¹ Leach, S (2009) *Party Politics and Scrutiny in Local Government: Clearing the Hurdles* Centre for Public Scrutiny p.10-13

"Now I really think that the scrutiny committees have become almost an extension of the administration in the topics that they look at."²²

6.6.3 Leach highlights that even where a cabinet is open to challenge, some party members "wouldn't [dream] of departing from the long-established tradition of 'not criticising your leader in public'. At Maidstone, there was a feeling amongst opposition members that members of the ruling party did not effectively scrutinise the cabinet.

"The disappointment for me has been the very, very noticeable lack of the Conservatives to want to question. And it is very evident."²³

One Conservative councillor did acknowledge this sense of "self-censorship" but emphasised the belief that this should not impact on scrutiny:

"No-one has ever told me I should vote a particular way; perhaps there is a sense you should vote with your own party, but I thought the idea of scrutiny was that you weren't supposed to be political."

6.6.4 With regard to minimising the scope for challenge from opposition members, cabinet was offered the opportunity to comment on the call-in process in May 2008, however the cabinet agreed not to increase restrictions on the opportunity to call-in decisions.

6.6.5 When considered along with members' comments on the relationship between overview and scrutiny and the cabinet [section 7], it is apparent that there is a strong feeling amongst opposition members that overview and scrutiny is manipulated, to some extent, by the cabinet and this perception must be tackled if opposition members are to feel that the process is of value.

6.7 Opposition Parties

6.7.1 The CfPS refers to "the detrimental impact of 'petty party political points scoring' on overview and scrutiny"²⁴, whereby opposition members may use overview and scrutiny as "a vehicle for media-orientated points-scoring of the type familiar from Prime Minister's Question Time...or in other ways...undermine the overview and scrutiny process in an attempt to discredit the party in power"²⁵. It is suggested that in such circumstances, the majority party or coalition will 'close ranks' and cease its cooperation with overview and scrutiny.

6.7.2 This was an issue raised by many majority party councillors who felt that the opposition used scrutiny for political gain and point-scoring, particularly where call-in was concerned.

²² Councillor interview (Lib Dem)

²³ Councillor interview (Lib Dem)

²⁴ Cited in Leach, S (2009) *Party Politics and Scrutiny in Local Government: Clearing the Hurdles* Centre for Public Scrutiny p.14

²⁵ Ibid.

"Some things are political for a reason – because they are important to people. For that reason, you can understand that it is good to call things in. But if it's because a political party needs something to go in their press release, I don't think that is constructive.²⁶"

"I have a problem with all political challenges, because I think it is a waste of time and it is petty point scoring and costs a lot of money. If there is a decision which I was particularly not happy with then yes, I would call it in, but only if there was a valid reason. I can't see the point of people trying to point score over political issues at this level: we are local government, we are all meant to be working on the same side.²⁷"

One opposition councillor admitted that they saw scrutiny as an opportunity to score political points:

"I'm a politician. When I'm challenging the cabinet, as a politician I'm trying to win the next election and make points.²⁸"

- 6.7.3 The decision of the main opposition party not to take up its full allocation of seats on each overview and scrutiny committee was also highlighted by one member:

"I think it's sad we don't have a full quota on the committees, and I feel it's a wasted opportunity and a shame. Having been a member of a scrutiny committee when my party was not in power, you can still make a very worthwhile contribution. I think residents would be shocked that opposition parties have chosen not to take up the opportunity on the committee.²⁹"

6.8 Call-In

- 6.8.1 Several members suggested that call-in was inevitably the part of scrutiny that was most likely to be affected by party politics:

"Obviously with a call-in politics is going to come into it, and I think it's fair for it to come into it at a call-in...it's two different political opinions, or group's opinions, and I think it's perfectly reasonable to be political.³⁰"

- 6.8.2 However, as suggested at paragraph 6.7.2, call-in is one area where it was suggested by many members that negative party politics was at its worst: "call-ins are the most politically charged part of scrutiny and therefore the least effective, I think.³¹"

²⁶ Councillor interview (Con)

²⁷ Councillor interview (Con)

²⁸ Councillor interview (Lib Dem)

²⁹ Councillor interview (Con)

³⁰ Councillor interview (Lib Dem)

³¹ Councillor interview (Con)

"If you take call-ins, for example...we've had some uncomfortable ones I think because they are hugely political at that point, and I've sat through a few where I've found it difficult to get the correct facts out on the table and try and have an impartial debate, and I do sometimes question the validity of those.³²"

6.8.3 Call-in is an extremely important part of the work of overview and scrutiny and must consequently be seen to work effectively. This is discussed in more detail at Section 7.7.

6.9 Tackling the Issue –Councillors

6.9.1 For overview and scrutiny to work effectively, "a commitment [is needed] on the part of all parties not to use overview and scrutiny for 'petty party political points-scoring'. (The council meeting is the right place for points-scoring of this nature – petty or otherwise!)"³³. Many councillors agreed with this, noting that "we're not here to play politics at this level."³⁴ and "it shouldn't be about narrow political point scoring, it should be about the people you represent as a councillor and getting the best possible policy."³⁵

6.9.2 Leach identifies the importance of the cabinet being open to scrutiny, noting that "in reality, for a reasonably competent and confident executive (majority party or coalition), there is little to lose from an 'opening up' of the overview and scrutiny process, and perhaps more to gain than is sometimes realised."³⁶

6.9.3 The committee raised the issue of party politics with William Benson, the officer responsible for overview and scrutiny from its inception at Maidstone Borough Council, and questioned how party politics could be dealt with now that Maidstone had a 'real' opposition: "Mr Benson identified that this could be overcome by members stating at committee meetings that they were speaking without prejudice and separately to their political role, for example."³⁷

6.9.4 The committee agreed that councillors needed to be assured that scrutinising a report and helping to ensure it was well-researched and based on sound evidence did not automatically indicate political approval of a decision; as one councillor pointed out, "[scrutiny is] really working with information, teasing out facts to make sure that any decision taken is at least informed by solid information."³⁸

³² Councillor interview (Lib Dem)

³³ Leach, S. (2009) *Party Politics and Scrutiny in Local Government: Clearing the Hurdles* Centre for Public Scrutiny p.36

³⁴ Councillor interview (Ind)

³⁵ Councillor interview (Lib Dem)

³⁶ Leach, S. (2009) *Party Politics and Scrutiny in Local Government: Clearing the Hurdles* Centre for Public Scrutiny p.19

³⁷ Minutes of the Corporate Services Overview and Scrutiny Committee meeting held on 07/07/09

³⁸ Councillor interview (Lib Dem)

6.10 Tackling the Issue - Chairmen

6.10.1 A number of councillors made comments in their interviews about the political parties of committee chairmen. Most councillors agreed that the chairman should be the "best person for the job", as "if you've got a good chairman they can bring out the best in the group that he's working for; his [political party] should make no difference."³⁹

6.10.2 The possibility of having the chairman and vice-chairman from different political parties, as proposed by two groups at the overview and scrutiny structure workshop, was raised by a number of councillors:

"We are not select committees in parliament, but we should have as independent a voice as possible and that is not served by everybody in one group being chair or vice chair...We have only occasionally had balanced chair-people and when we have, scrutiny has been particularly good."⁴⁰

"The chair must be open to scrutiny as well, hence the need for the vice-chair to be in opposition. They must be, otherwise the chair will never be questioned."⁴¹

6.10.3 The Corporate Services Overview and Scrutiny Committee was particularly mentioned in relation to chairmanships, with many members feeling that this committee, with its responsibility for budget and performance scrutiny, should be chaired by a party other than the ruling party to improve transparency of the cabinet and in decision-making.

"I think that the Leader of the Opposition should be the leader of Corporate Services or the head scrutiny committee. Then I think...it wouldn't be seen as just pacifying scrutiny, there would be a different political feel to it."⁴²

"I would be happier if there was a break between the ruling party and control of the committees, particularly within Corporate Services. I think this committee should always be led by someone outside of the ruling party...That committee should be free from any inference or influence by the executive."⁴³

6.10.4 One councillor believed that all chairmen should come from the ruling party:

"I think [chairmen] should probably be from the leading party because we can follow the requirement or wishes of the council leader."⁴⁴

³⁹ Councillor interview (Lib Dem)

⁴⁰ Councillor interview (Ind)

⁴¹ Councillor interview (Lib Dem)

⁴² Councillor interview (Con)

⁴³ Councillor interview (Lib Dem)

⁴⁴ Councillor interview (Con)

However, as this was not a view repeated by other councillors, and would appear to suggest that having ruling party chairmen leads to the 'manipulation' referred to at Section 6.6.1, recommendations are based on the sections above.

6.10.5 Leach argues that chairmanships should be divided between political groups, a practice that takes place in the House of Commons Select Committees:

"An appropriate political climate for responsible but challenging scrutiny can be facilitated by the sharing of chairs of scrutiny committees. If the majority party (or coalition) claims all the chairs, then the opposition party may understandably feel aggrieved and excluded...If all the chairs are allocated to opposition members, that too gives an inappropriate message, namely that scrutiny is primarily an oppositional activity rather than the requisite delicate balance between holding to account (scrutiny) and support (overview).⁴⁵"

6.10.6 When discussing the issue of chairmanships with the Clerk to the Communities and Local Government Select Committee, it was highlighted that the chairmen of select committees were expected to foster a sense of "we the committee, you the executive", rather than operating along political lines⁴⁶, and this could be an important message to emphasise in local government overview and scrutiny also.

6.11 Recommendations

6.11.2 It is recommended that:

- the chairman and vice-chairman of each committee come from different political groups; in the case of a coalition cabinet not involving all parties, the chairman and vice-chairman should not both come from parties involved in the coalition;
- the chairman of the Corporate Services Overview and Scrutiny Committee comes from a party not represented on the executive, except where the executive is an all-party coalition in which case a vote will take place for which all committee members are eligible;
- each overview and scrutiny committee develops a set of 'ground rules' at the start of the year to outline the expectations on each committee member, including with regard to party politics and cross-party recommendations; and
- recommendations arising from pre-decision scrutiny will be made on the basis that they will highlight issues to be considered by the cabinet or cabinet member to ensure evidence-based, informed decisions but will not prejudice committee members with regard to the final decision.

⁴⁵ Leach, S (2009) *Party Politics and Scrutiny in Local Government: Clearing the Hurdles* Centre for Public Scrutiny p.30

⁴⁶ Minutes of the Corporate Services Overview and Scrutiny Committee meeting held on 01/12/09

7. Challenge, Call-In and the Relationship with Cabinet

- 7.1 A good relationship with the cabinet is vital if overview and scrutiny is to have a positive influence on the council's work:

"The most overview and scrutiny can hope to achieve is 'influence'. It is more likely to do so if the climate of the relationship between the executive and overview and scrutiny is conducive to influence⁴⁷".

- 7.2 Much of overview and scrutiny's direct relationship with the cabinet is based on challenge, whether through pre-decision scrutiny, policy review or call-in. However, there has been a concern amongst Maidstone councillors that the focus of overview and scrutiny's work has been on the 'overview' side⁴⁸, for example looking at new areas of work and policy development, limiting scrutiny's contact with and challenge to the cabinet.

- 7.3 Call-in is a key tool for backbench members to challenge the cabinet, however it is generally considered preferable to carry out pre-decision scrutiny to ensure that an acceptable decision is taken in the first instance. Involving members in pre-decision scrutiny, however, requires a strong relationship with the cabinet:

"If you have a proper relationship you don't need to do a call-in because everyone will be prepared for what could be a decision. We [currently] don't know what's going on and suddenly a decision's been made.⁴⁹"

In 2008-09, there were 14 call-ins compared to an average of 5-6 per year in previous years, which led to questions over the strength of the relationship between cabinet and scrutiny, and in particular the level of influence that scrutiny had over decisions being taken.

- 7.4 This section will identify how councillors currently perceive the relationship between the cabinet and overview and scrutiny, and what opportunities backbenchers feel that they have to challenge the cabinet – whether through scrutiny or other avenues. The use of call-in will also be looked at to identify whether this is considered effective and how it could be improved.

7.5 Relationship with the Cabinet

- 7.5.1 Of 12 councillors who directly commented on scrutiny's relationship with the cabinet, 10 (5 Con, 4 Lib Dem, 1 Ind) felt that there was a good relationship, whilst 2 (Lib Dem) felt that the relationship was bad or 'non-existent'.

⁴⁷ Leach, S (2009) *Party Politics and Scrutiny in Local Government: Clearing the Hurdles* Centre for Public Scrutiny p.20

⁴⁸ See minutes of the Corporate Services Overview and Scrutiny Committee meeting, 06/10/09, Minute No 61

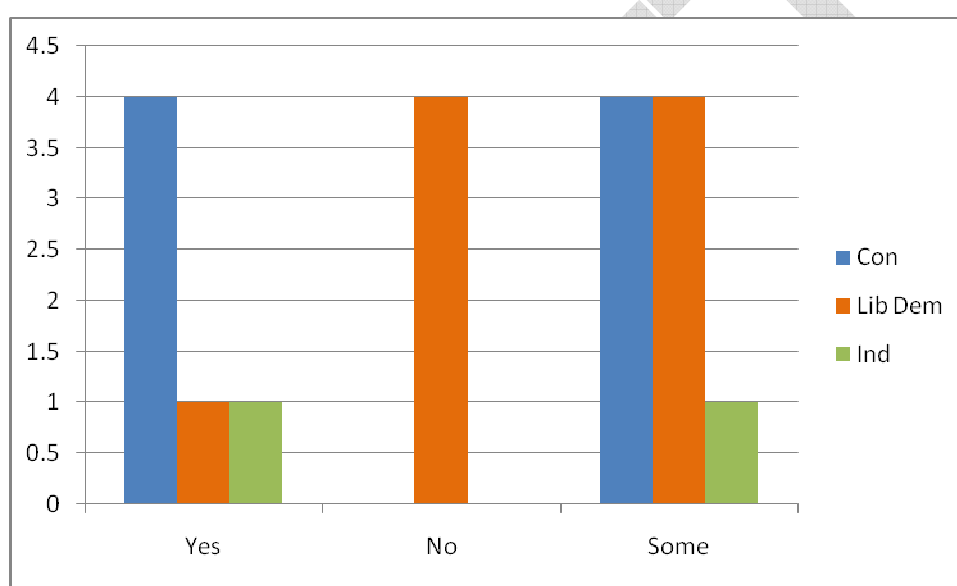
⁴⁹ Councillor interview (Lib Dem)

7.5.2 It was highlighted, however, that whilst there was generally a good relationship, it was important for scrutiny to retain independence and work alongside, rather than for, the cabinet:

“I haven’t really had any dealings with the cabinet as the chairman. Maybe I should. It’s difficult because you don’t want to be the lapdog of the executive.⁵⁰”

“We need to get members to actively divorce the work of scrutiny and the work of the executive⁵¹”.

7.5.3 Despite the general consensus that there was a good relationship between the cabinet and scrutiny, when asked whether the cabinet was *influenced* by scrutiny, there was a much broader range of answers and a clear political divide in the responses:



As one opposition councillor noted, “they’re a very friendly cabinet, they’ll always come and chat to you, I don’t think there’s any issues there, it just goes back to, no matter how ‘matey’ you are, if they don’t like it they’ll ignore it and there’s no fixing that”.

7.5.4 Members of the ruling party were much more positive about the influence that scrutiny could have over the cabinet, though highlighted the tension caused by opposing political beliefs.

“Everyone will say that if they’ve made representations on an issue, if they’ve lobbied, if they’ve asked questions, if they’ve put a viewpoint forward, and then it doesn’t happen, they will always say ‘you haven’t listened to us’. That’s not necessarily the case; maybe they have but they don’t agree with you. I think that happens a lot and it would happen whoever was in charge, whoever was the opposition.⁵²”

⁵⁰ Councillor interview (Con)

⁵¹ Councillor interview (Lib Dem)

⁵² Councillor interview (Con)

"[Cabinet members] listen and take note, they probably act when they can. There are probably issues/tensions with other priorities that would prevent them from doing something the committee wanted. It doesn't always follow that a scrutiny recommendation/pressure to the cabinet gets translated into a nod by the cabinet, but I would say they certainly take note of it.⁵³"

7.5.5 There was more feeling amongst the main opposition party that cabinet disregarded scrutiny:

"Basically, if the [cabinet] thinks that [the opposition] can't absolutely prove they're wrong and they can get round it, they won't change. I really don't think scrutiny influences the cabinet at all.⁵⁴"

"If I thought about it more I'm sure there are some examples where [cabinet members] have [listened to scrutiny] but generally, my perception would be that they don't listen very much.⁵⁵"

7.5.6 The most popular response, and one on which there was some cross-party consensus, was that cabinet would be influenced where recommendations were well thought out, though it was accepted that cabinet would still only be influenced "in a limited way"⁵⁶ overall.

"I think it would be very difficult to say [the cabinet] doesn't listen full stop because whoever's in cabinet has got to listen to what other councillors are saying, and if it's a good report they'd be silly not to use it, but I do believe there's been occasions where it hasn't been used as much as it could be, or as well as it could be.⁵⁷"

"I'm not sure how far the work of scrutiny committees is influencing as much as it should at the moment. I feel that some of the recommendations, endorsed by all of the committee, are not necessarily followed through by cabinet members.⁵⁸"

"If we're constructive there's no reason why they shouldn't want to take on board what we've said. If we try our hardest to come up with common sense solutions and good ideas, then a good idea's a good idea and they should take it on board.⁵⁹"

The requirement for recommendations to be well thought-out and evidence-based is clear, as these were considered more likely to be accepted than recommendations without clear reasoning.

⁵³ Councillor interview (Con)

⁵⁴ Councillor interview (Lib Dem)

⁵⁵ Councillor interview (Lib Dem)

⁵⁶ Councillor interview (Con)

⁵⁷ Councillor interview (Lib Dem)

⁵⁸ Councillor interview (Ind)

⁵⁹ Councillor interview (Con)

7.5.7 Several councillors also noted that that a “good cabinet⁶⁰” would be influenced by scrutiny, suggesting that “if they don’t [take other views on board] then they shouldn’t be in the cabinet, should they?⁶¹”

7.5.8 Leach summarises the need for all members and all parties to work together to make scrutiny work, stating that for scrutiny to operate effectively “it requires an executive which is confident enough to cope with public challenge and open-minded enough to change its decisions or modify its policies if convinced by the evidence. Secondly, it requires an opposition which is prepared to ‘play by the rules’ of overview and scrutiny, toning down the overtly political nature of its discourse and focusing instead on the basis in evidence of its challenges.⁶²”

7.6 Challenging the Cabinet

7.6.1 When asked what opportunities were available to backbench members to challenge the cabinet, answers ranged from “I think we’ve got very good opportunities” (Con) and “I think we have plenty of opportunities” (Lib Dem) to “none that I can see” (Lib Dem) and “very slim” (Lib Dem). Specific methods mentioned are outlined as follows:

Method	Conservative	Liberal Democrat
None		1
Council/Cabinet Meetings	3	1
Overview and Scrutiny	6	4
Call-In	2	2
Direct contact with Cabinet Member	4	1
Other	2	2

Four Conservative Members directly cited more than one option, as did two Liberal Democrats.

7.6.2 There was also surprisingly limited knowledge about the opportunity to carry out pre-decision scrutiny, with many councillors immediately citing call-in as the main method of challenge through scrutiny. The importance of pre-decision scrutiny and the use of the forward plan of key decisions will be discussed further at Section 12.4, however it is a cause for some concern that backbench members may feel increasingly isolated from the decision making process if opportunities for involvement are not outlined to all members.

7.6.3 A number of councillors stated that overview and scrutiny was there to support the cabinet, with constructive challenge being vital to the democratic running of the council.

⁶⁰ Councillor interview (Con)

⁶¹ Councillor interview (Con)

⁶² Leach, S (2009) *Party Politics and Scrutiny in Local Government: Clearing the Hurdles* Centre for Public Scrutiny p.35

"I think what [scrutiny] provides is a useful tool for cabinet discussion, because I don't think the cabinet are able to make decisions in isolation. What I mean by that is that they are not necessarily the ones who will come up with all the good ideas. I think what it does is provoke a discussion...I don't think there is only one answer to every problem, but it's trying to work out what is the best answer for residents given the resources we are working with.⁶³"

"It is important the cabinet recognises scrutiny has a genuine role and that they are not being perverse when querying some decisions. The role of scrutiny is to provide a robust counter balance to the governance by cabinet.⁶⁴"

7.6.4 With this in mind, however, some members did emphasise the need for scrutiny to be *more* challenging of the cabinet to ensure that the "counter balance to the governance by cabinet" referred to above was robust and achieving positive results for residents.

"There seems to be a cosy relationship [between cabinet and scrutiny]...from a scrutiny point of view, scrutiny isn't properly challenging.⁶⁵"

"To a degree, [scrutiny does influence the work of the cabinet], but what we're not doing is coming up with something in advance and saying 'you have got to get this in your budget' – we're not dynamic enough.⁶⁶"

"[How can good relations between the cabinet and scrutiny be maintained?] Irrelevant – you don't need good relations, the tougher you are the better.⁶⁷"

7.6.5 The perceived lack of strong challenge to the cabinet, it was suggested by some members, was symptomatic of a lack of faith in the system and in the cabinet's expected response to challenge.

"I think currently members haven't got the mindset to do it – we very politely come along to the meetings and listen. We don't come along planning to really get to the bottom of things. How you overcome that, I don't know, because I think it stems from the backbenchers thinking that really they can't make any meaningful changes. Because you haven't got ownership of that decision making – you know the cabinet member's got it, and you know that, yes, he may listen to your recommendations but he or she still doesn't have to do what you say, so there's inevitably that remoteness from it.⁶⁸"

⁶³ Councillor interview (Con)

⁶⁴ Councillor interview (Ind)

⁶⁵ Councillor interview (Con)

⁶⁶ Councillor interview (Lib Dem)

⁶⁷ Councillor interview (Con)

⁶⁸ Councillor interview (Lib Dem)

"I don't think the power is there to really bring to task the cabinet. The structure is it will always go back to cabinet and council.⁶⁹"

7.7 Call-In

7.7.1 Councillors interviewed were very clear about the power of call-in, the importance of that mechanism to challenge the cabinet and the ability of it to change decisions.

"Call-ins are particularly important. There were quite a number last municipal year, but it is very important this is recognised as one of the few ways in which backbench members have a chance to challenge what is going on. Call-ins are an important counter balance to make sure people making decisions have looked at alternatives.⁷⁰"

[Call-in is] potentially the process with the most potential for generating a well-informed political debate about an issue of genuine political concern.

Leach, S. (2009)

"This current cabinet have been influenced on more than one occasion by matters that were put to them at the call-in.⁷¹"

7.7.2 However, an equally clear opinion was that party politics could have a significant, negative effect on call-in that could diminish its strength, particularly when call-in was perceived to have been used to garner media interest, or when committee members were perceived to have been whipped.

"The trouble with call-ins is they get very political if you are not careful. There have been a lot over the last municipal year which didn't achieve much other than media interest. They're often not constructive.⁷²"

"The call-in process seems relatively pointless when you have the leading group voting as a block...I think that's a virtue of the defensiveness that comes from having an administration with a majority of one or whatever: they've got their backs up against the wall and they are very defensive.⁷³"

7.7.3 However, one councillor did note that "I don't see it politically, because I don't see anything politically, I see it as good for Maidstone or good for the council⁷⁴".

7.7.4 It was suggested by several councillors that issues with call-in becoming "a waste of time" were sometimes caused by poor preparation on the part of those calling the decision in, unsatisfactory handling of call-ins by the

⁶⁹ Councillor interview (Con)

⁷⁰ Councillor interview (Ind)

⁷¹ Councillor interview (Lib Dem)

⁷² Councillor interview (Con)

⁷³ Councillor interviews (Lib Dem)

⁷⁴ Councillor interview (Ind)

committee or by fundamental differences in political ideology, rather than “petty party political points scoring”⁷⁵.”

“Invariably it’s the background to the call-in and answering your own questions. You need to be able to answer your own questions before you ask them. To be honest... [with some call-ins last year] we didn’t stand a chance. We were ill-prepared.”⁷⁶”

“Each time we’ve called something in I don’t feel as if scrutiny has got together with members to say ‘how can we best deliver our concerns?’.”⁷⁷”

“Even the call-ins we had, there were changes made. Maybe not necessarily the big changes but that’s because, I think, there’s a fundamental difference between what the two parties believe.”⁷⁸”

7.7.5 Some councillors put forward proposals for improving call-in, whether by improving the call-in meeting itself or improving pre-decision scrutiny.

“I think that the committee should be prepared to question the people that are doing the call-in...to prevent it ever being a flippant call-in, I think that the people that have done the call-in should have done their homework, not just in writing a bit of paper but should actually be prepared to stand up to people on the committee asking them questions as well – ‘why did you call this in? What was it particularly? You’re saying this, *why* have you said this, what evidence have you got for that?”⁷⁹”

“I think [detailed reasons for call-in] should be written down, I think that perhaps we should be sharing that information earlier in advance of the meeting.”⁸⁰”

“I think it would be better to have a good discussion about the whole issue rather than a confrontational discussion as a call-in sometimes is, and sometimes political, which I don’t think it should be. They do occasionally bring to light problems the cabinet member may not have considered. But having said that, if it was discussed in a more general way by the committee first, the same ideas might have come through to be acted on.”⁸¹”

7.8 Conclusions

7.8.1 The evidence presented above identifies some dissatisfaction amongst backbench members over the relationship between the cabinet and overview and scrutiny, as well as backbench engagement in decision

⁷⁵ Leach, S (2009) *Party Politics and Scrutiny in Local Government: Clearing the Hurdles* Centre for Public Scrutiny p.14

⁷⁶ Councillor interview (Lib Dem)

⁷⁷ Councillor interview (Ind)

⁷⁸ Councillor interview (Con)

⁷⁹ Councillor interview (Lib Dem)

⁸⁰ Councillor interview (Ind)

⁸¹ Councillor interview (Con)

making. Whilst most members believe the relationship to be good, there is less satisfaction over the level of influence that overview and scrutiny has, leading to disengagement with the process and limited challenge of the cabinet. The more disengaged members become, the less influence that they have, leading to a cycle of disengagement and dissatisfaction.

7.8.2 It is recommended that:

- all overview and scrutiny reports will include clear evidence to support recommendations, including financial details as appropriate;
- updates be provided to each committee on a quarterly basis outlining progress on that year's recommendations;
- new member training include information on the opportunities available to take part in decision-making, request information from officers and challenge the cabinet;
- councillors calling in a decision should be subject to scrutiny at the call-in meeting; and
- councillors calling-in a decision should submit a short written statement outlining their reasons for call-in at least 24 hours prior to the meeting.

DRAFT

8. Committees

8.1 To ensure effective overview and scrutiny, it is vital that the structure of the committees is fit for purpose.

8.2 To consider potential new structures for overview and scrutiny at Maidstone, a workshop for all councillors was hosted by the Corporate Services Overview and Scrutiny Committee on 3 November 2009.

8.3 16 councillors attended the workshop and considered a number of questions around:

- Committees and working groups;
- Number of committees and members on these;
- Chairmanships; and
- Frequency of meetings.

All members agreed that there should be no split between 'overview' and 'scrutiny' in a new structure.

8.4 Members split into three cross-party groups to identify a possible structure for scrutiny in the future; the options were then summarised alongside evidence from councillor interviews and background research, and presented to the Corporate Services Overview and Scrutiny Committee.

8.5 Members of the Corporate Services Overview and Scrutiny Committee also contacted other councils to identify what alternative structures were available and what the advantages and disadvantages of these were. The results of this research were incorporated into a presentation given at the workshop, and in the table below.

Structure	Information	Advantages	Disadvantages
Multiple overview and scrutiny committees.	64% of local authorities in England and Wales operate this arrangement.	Engagement of a wide range of members; clear accountability for cabinet members; combining 'overview' and 'scrutiny' allows for more holistic reviews; allows members to build up knowledge of a broad portfolio area.	Overlap between committees; can avoid more cross-cutting issues; silo mentality; can lack flexibility.
One OSC that does all the work.	One committee to carry out reviews, scrutinise the Cabinet and deal with call-in. 11% of local authorities in England and Wales operate this arrangement.	Don't need so many members involved; no overlap between committees; clear accountability.	Fewer members engaged in the process; could need to meet very frequently to deal with workload, or alternatively carry out very limited work.
One "scrutiny" committee and multiple "overview" committees.	One scrutiny committee to monitor Cabinet decisions and deal with call-in, multiple overview committees to carry out policy reviews. 7% of authorities in England and Wales operate this arrangement.	Clear accountability for Cabinet as a whole; committees dedicated to policy development; one committee to deal with call-in and scrutiny means members build up experience of effective questioning.	Not carrying out policy reviews means the Cabinet scrutiny committee does not build up a range of knowledge; separating scrutiny from overview can lead to less holistic reviews.
One OSC that commissions time-limited panels.	The OSC usually manages the work programme, and can carry out its own policy review work. Time-limited panels can be commissioned to look at specific issues. Some councils have standing sub-committees to deal with issues such as call-in or performance management when required. 19% of authorities in England and Wales operate this arrangement.	No overlap between committees; fewer members required on a regular basis throughout the year so more can be involved in task and finish work; time-limited panels can be more productive as only councillors with an interest or experience in the topic need to be involved.	OSC can't take on a high workload so topics need to be carefully selected – difficult with one-off items; fewer councillors engaged at any one time; reduced opportunity to build up knowledge and skills.

8.6 Structure

8.6.1 During interviews with councillors, few commented directly on the existing overview and scrutiny committee structure but those that did offered a range of opinions:

"I would prefer there to be only one scrutiny committee, but it should have the option, like Planning, to take two or three meetings a month if needed. I think this would involve backbenchers even more, as there would be wider membership of the committee⁸²".

"What I'd like scrutiny to look at is to refresh its committee structure so that it can take a greater role in the external activities that place a burden on one hand or attract funding on the other to this Council⁸³".

"I believe the system we have is, through personal experience, a good one⁸⁴".

8.6.2 One member did refer to the use of the Scrutiny Coordinating Committee, commenting:

"I wonder whether we make enough use of calling our scrutiny chairs together to consider options – you can't call everybody and you do have that machinery.⁸⁵"

Several councillors at the workshop also suggested that the Coordinating Committee (made up of chairmen and vice-chairmen of the overview and scrutiny committees) could take a stronger role in ensuring work programmes were appropriate and well coordinated, both in terms of committee work and working groups.

8.6.3 At the workshop, two of the three groups agreed that a structure of four committees was still appropriate. The third group felt that the number should be increased to six, with each directly relating to a cabinet member portfolio. To take this into account, it was agreed that the overview and scrutiny team would review the existing committee terms of reference to ensure that they still provided clear lines of accountability for each cabinet member. It was also important that there was a balance of work across the four committees.

8.6.4 The overview and scrutiny team reviewed the terms of reference for the committees and proposals for these are included at [Appendix B](#). Aligning the committees to cabinet portfolios resulted in imbalanced terms of reference, with two or three committees having high workloads and the other(s) having very little. The team therefore opted to align the committees more closely to council priorities, which resulted in much more balanced terms of reference.

⁸² Councillor interview (Con)

⁸³ Councillor interview (Ind)

⁸⁴ Councillor interview (Lib Dem)

⁸⁵ Councillor interview (Ind)

8.7 Working Groups

8.7.1 Most councillors in their interviews discussed the benefits and disadvantages of working groups, which included discussions around the format of meetings to get the most out of them.

8.7.2 Members' opinions on working groups were divided: many members felt that while there were clear advantages to working groups, for example the opportunity for members to be more directly involved, they needed close management, required a lot of support from the scrutiny team and as they usually operated during working hours, the range of councillors who could take up places on these was limited. There was also concern over the weight that working group reports carried.

"Working groups have their use... [but] if you have a working group they can almost go off and have a life of their own. It can take an awful lot of scrutiny officer time, but I'm not convinced there is always a sensible outcome from them. And they can preclude people who work full time.⁸⁶"

"I'm not convinced that working groups work. They go on too long...and I think because it isn't a committee, it becomes much more difficult to keep that group together.⁸⁷"

"I think [where working groups have existed] it means that members can get behind it, they've got a little bit more hands on...you're not tied up with process and procedure, you meet with the people and you get down to what I call the nitty-gritty of it. Providing your aims and objectives are clear and it has been set up properly it works well.⁸⁸"



8.7.3 Members therefore agreed that the option needed to remain for committees to set up working groups where this was felt appropriate, but due to the difficulties in keeping these together and managing workloads, the Scrutiny Coordinating Committee needed to play a role in monitoring these.

⁸⁶ Councillor interview (Con)

⁸⁷ Councillor interview (Lib Dem)

⁸⁸ Councillor interview (Ind)

8.8 Size of Committees

- 8.8.1 A number of councillors in their interviews suggested that larger committees could pose problems in terms of organising meetings, whilst smaller groups sometimes improved discussion.

"There are 9 people on the committee, to add someone else, does that make it unwieldy to coordinate? The working group was great...ideas were certainly free flowing, but that's to do with numbers. There were only 5 on the working group, generally a scrutiny committee is 9 – if you let everyone talk at the same time when there are 9, that's much more difficult than 5.⁸⁹"

"I'm wondering if we need committees the size they are. I know people say 'we've got to find a role for every councillor' but if they're coming to scrutiny and they're not doing it...Unless we can get scrutiny people to actually scrutinise properly, we don't need the numbers to be as great; we could have smaller scrutiny committees and then try and pick the cream, for want of a better word, or if we're going to leave them the same size then it all comes down to the training and insisting that people actually do it properly...⁹⁰"

- 8.8.2 However, the groups at the workshop recommended 7, 8 or 9 members per committee; if committees are to remain this size, then in line with the quote above, the need for good training becomes apparent. This will be investigated further at Section 10.
- 8.8.3 The committee sought advice from the Democratic Services Manager with regard to potential problems achieving political balance with an even number of members on a committee, and it was confirmed that with the current political balance, this would not be a problem. However, committees of any size had the potential to cause problems achieving political balance depending on the political composition of the council. The committee consequently recommended that overview and scrutiny committees should consist of 7 members.
- 8.8.4 With regard to substitute members, one group at the workshop suggested allowing all non-executive members, rather than just nominated substitutes, to substitute on overview and scrutiny committees to ensure full attendance at committee meetings. The Corporate Services Overview and Scrutiny Committee agreed that this should also be investigated for all council committees that did not have training as a prerequisite for membership.

8.9 Frequency of Meetings

- 8.9.1 At the workshop, members' suggestions as to frequency of meetings were bi-monthly, 9 per year or monthly. When further discussed by the Corporate Services Overview and Scrutiny Committee, it was agreed that

⁸⁹ Councillor interview (Con)

⁹⁰ Councillor interview (Lib Dem)

monthly meetings should be scheduled to ensure that these dates were available in the council diary, however the committee chairmen should be prepared to cancel or add meetings as necessary to avoid holding “meetings for the sake of meetings” or to ensure that urgent business was dealt with appropriately.

8.9.2 The committee did agree to the cancellation of May meetings to allow time for new scrutiny members to be trained and to begin compiling work programme suggestions.

8.10 Recommendations

8.10.1 It is recommended that:

- there are four Overview and Scrutiny Committees which all have the option of creating working groups where appropriate, and the terms of reference be revised as outlined at Appendix B;
- meetings are held monthly, except for May, with flexibility to add or cancel meetings as appropriate;
- the Scrutiny Coordinating Committee be strengthened to ensure better management and coordination of committee work and working groups;
- any non-executive member be allowed to substitute on any committee not requiring prior training, rather than having nominated substitutes; and
- overview and scrutiny committees consist of 7 members.

9. **Membership**

9.1 The CfPS has identified four principles of effective public scrutiny, with one of these identifying that overview and scrutiny should be “carried out by ‘independent minded governors’ who lead and own the scrutiny process.”⁹¹

9.2 It is essential that overview and scrutiny members have confidence in the process and are clear on their roles and responsibilities. If members are clear on the role of overview and scrutiny, they will be able to lead and own the process effectively.

“You know I don’t fault scrutiny at all really, the only thing I would say - the challenge lies in the quality of membership”

Councillor Interview (Con)

9.3 Role

9.3.1 Several councillors raised concerns that other members did not understand or appreciate the role of overview and scrutiny:

“Some [members] don’t like it, some think it is being nosey for the sake of being nosey, others see it as a pointless waste of time, and others see it as an opportunity to stand up and use it as an electioneering platform, [however] others take it seriously.”⁹²

“So many councillors don’t actually know what their role is, they really don’t.”⁹³

9.3.2 However, when asked about the role of overview and scrutiny members, councillors identified several important roles:

“You’re there to make a difference, you’re trying to ensure a good decision is made, and all that goes with ensuring that happens.”⁹⁴

“To be certain that decisions taken on behalf of the community are the right ones.”⁹⁵

“In an ideal world, [scrutiny members] are there to make decisions better, to stop catastrophes before they happen.”⁹⁶

“The role is representing people of [the councillor’s] ward and others.”⁹⁷

⁹¹ Centre for Public Scrutiny *About Us* <http://www.cfps.org.uk/about-us/> [Accessed: 11/01/10]

⁹² Councillor interview (Con)

⁹³ Councillor interview (Lib Dem)

⁹⁴ Councillor interview (Lib Dem)

⁹⁵ Councillor interview (Ind)

⁹⁶ Councillor interview (Con)

⁹⁷ Councillor interview (Con)

9.3.3 Council officers were also clear about the role of overview and scrutiny in the democratic process, with most officers referring to “challenge” and “investigation”:

- “To challenge the executive and to influence the policy and direction of the authority”;
- “To challenge, investigate and make recommendations on options and alternatives”;
- “To keep the executive ‘sharp’.”

Officers also noted the important role of overview and scrutiny in reviewing policy and representing the electorate:

- “To add capacity to review issues on behalf of the council that have important political considerations”;
- “To consider aspects of the council functions that they, or the electorate or others, would like to know more about.”

9.4 Responsibilities



9.4.1 Councillors and officers identified a wide range of responsibilities of overview and scrutiny members, including practical responsibilities and members’ attitude towards scrutiny.

9.4.2 “Reading the papers” was one of the most popular responsibilities mentioned by councillors, and one of those cited most frequently as a responsibility that was ignored, to the detriment of overview and scrutiny:

"There is a responsibility to read your papers. It's sometimes quite embarrassing when a point has been covered in the papers and a member asks it as a question.⁹⁸"

"I think [members'] responsibility is to have at least read the agenda. We have had occasions where people haven't and come to the meeting ill-prepared. I think residents would be disappointed if they thought a councillor was on a committee and hadn't read the papers in front of them as it is almost disrespectful.⁹⁹"

"[The quality of questioning and knowledge] varies. I have attended many meetings where the OSC had read the submitted documents and were well prepared. I have occasionally attended one where this was not the case. Where this happens the quality of questioning suffers as a result.¹⁰⁰"

9.4.3 Other practical responsibilities highlighted were:

Research

Many members felt that councillors should be carrying out some of their own research, though acknowledged that this depended on the amount of time available to each individual councillor:

"It's really good if you can read around your papers. I know it's sometimes difficult to do, not everyone has the time to do that, but you only have to type it into Google to get an idea of what is going on nationally.¹⁰¹"

"In a nice-to-have, Utopian world, I think councillors should be more responsible for researching the issues that they're more interested in, but I know that *I* haven't the time, so you could never really assign it as a responsibility.¹⁰²"

Some councillors did suggest that "the overview and scrutiny officer does need to sometimes herd members in the right direction for background research, in terms of websites or other reports¹⁰³"; it could therefore be useful for briefing notes to include links to websites for further research if members wish to carry out their own further research.

Questioning Skills

"An individual councillor's job is to properly look at the materials given before the meeting so that they are able to ask informed questions.¹⁰⁴"

⁹⁸ Councillor interview (Con)

⁹⁹ Councillor interview (Con)

¹⁰⁰ Officer questionnaire

¹⁰¹ Councillor interview (Con)

¹⁰² Councillor interview (Lib Dem)

¹⁰³ Councillor interview (Con)

¹⁰⁴ Councillor interview (Ind)

“One of the reasons why scrutiny loses its way is because members do not ask pertinent questions. Members should raise their game in relation to overview and scrutiny.¹⁰⁵”

Officers also commented on the importance of questioning skills, identifying that good questioning skills added value to the scrutiny process. When asked about the quality of questioning at scrutiny meetings, responses included:

“I have had experience of questioning that goes round in circles and where the linkage to the topic is difficult to understand – this has been less so in the more recent meetings.”

“Some good, some very bad.”

“Questioning is often focused on the minutiae and not the wider picture.”

Preparation for Meetings

Councillors emphasised a need to prepare in order to get the most out of meetings:

“If members want to take an active role and want scrutiny to influence, then they have to have done their homework so that they can drive the process.¹⁰⁶”

“You should go to a meeting with an objective, having read the papers... [for example] ‘these are the three things I want to know the answer to at the end of the meeting’.¹⁰⁷”

It was emphasised that this preparation was part of the role of a councillor:

““When somebody chooses to become a councillor – because people choose to become a councillor, they’re not forced into it – they should be aware that it is going to have some demand on their time. It is for the individual councillor to prepare and they should know how to prepare for a scrutiny (there is plenty of support and information available from officers as well) if they’re on a scrutiny committee.¹⁰⁸”

“I’m sick to the back teeth of councillors not doing the job they’re employed to do, of people being spoon-fed with absolutely everything. It is up to councillors, particularly if you’re on scrutiny, to actually do a bit of work.¹⁰⁹”

¹⁰⁵ Councillor interview (Lib Dem)

¹⁰⁶ Councillor interview (Lib Dem)

¹⁰⁷ Councillor interview (Con)

¹⁰⁸ Councillor interview (Con)

¹⁰⁹ Councillor interview (Lib Dem)

9.4.4 Many members also highlighted that councillors had a responsibility to be open-minded, unbiased and willing to learn when attending overview and scrutiny meetings:

"[Members] need to come with an open mind...responsibility to think independently without your party political hat on.¹¹⁰"

"We should be able to look at both sides and that's what scrutiny's about, it's seeing both sides and not making an opinion before you've got all the answers.¹¹¹"

"There needs to be, on every single level of councillors, an acceptance that we don't know everything, and there are people out there who will know more on a specific subject than we do.¹¹²"

9.4.5 Members also highlighted the importance of robust challenge to the cabinet, as outlined at Section 7.6.4.

9.5 Lack of Understanding

9.5.1 One theme arising from the interviews with councillors was a concern that amongst the membership there was "a lack of understanding and a lack of willing to understand [how good scrutiny can be].¹¹³"

9.5.2 One issue around the "lack of willing to understand" was that some members believed the work of scrutiny to be unsatisfactory, however they were unaware of the range of work it was doing. One councillor suggested that it was disappointing that a review had not been carried out looking at issues around resident immigrants and language; however this had been carried out by the External Overview and Scrutiny Committee as a major review in 2008-09. When it was explained that the review had been publicised via the scrutiny e-bulletin, in addition to the website and committee agendas, the councillor responded "oh, I don't read that."¹¹⁴

9.5.3 Similarly, one councillor pointed out, "if you laid out a list of all the ways over the last year that scrutiny [had an impact], I think every councillor would be surprised at how long the list would be. And yet if you asked pretty much any councillor 'did scrutiny impact the work of the council last year?' they'd probably say no."¹¹⁵ There is therefore clearly an issue around how information is disseminated to councillors (including those not on scrutiny committees) in a meaningful way in order to promote the work and success of scrutiny to encourage a more positive view of it.

9.5.4 There was also an issue with a lack of understanding of the topics under review. One councillor stated: "there are members who have been within

¹¹⁰ Councillor interview (Con)

¹¹¹ Councillor interview (Lib Dem)

¹¹² Councillor interview (Con)

¹¹³ Councillor interview (Con)

¹¹⁴ Councillor interview (Lib Dem)

¹¹⁵ Councillor interview (Con)

the council for a number of years who do not demonstrate an in depth understanding of how the council works. This is not limited to anyone in a particular political group. At a recent meeting one councillor asked 'why do we have to follow National Indicators, why can't we go our own way?' This is clearly a misunderstanding of how local government is guided and funded by central government, for example.¹¹⁶ This lack of basic background knowledge of the way in which local government works will clearly impact on the effectiveness of overview and scrutiny and needs to be addressed.

9.6 Chairmen

9.6.1 Councillors were very clear on the importance of the chairman's role to overview and scrutiny:

"It's important to have a charismatic or a strong chair to lead the committee into interesting territory but not dictate the eventual findings; this sort of chair actually gives the committee somebody to energise them and to react against as well.¹¹⁷"

"I think we should look at a better job description for chairmen. I have heard one chairman say that their only job is to turn up for the meeting and I think that's a disgrace.¹¹⁸"

Officers also noted this role, suggesting that "good leadership of the O&S committees" could help to ensure constructive challenge, though it was also suggested that this "in practice is inconsistent".

9.6.2 A range of roles was outlined for scrutiny chairmen to ensure that overview and scrutiny was effective:

Public Engagement

"The [meeting] at St Simon Stock [school], - it was chaired extremely well as 30 people were able to put questions to the panel [and] it was informal enough that people were happy to do so.¹¹⁹"

Ensuring Constructive Challenge

Scrutiny officer: "How can we ensure that challenge is constructive?"

Councillor: "If a good chairman, shouldn't have a problem. Experienced members and good chairs can influence it to ensure that it is correctly phrased.¹²⁰"

Managing Meetings

¹¹⁶ Councillor interview (Lib Dem)

¹¹⁷ Councillor interview (Lib Dem)

¹¹⁸ Councillor interview (Lib Dem)

¹¹⁹ Councillor interview (Con)

¹²⁰ Councillor interview (Con)

"I think sometimes we're not too sure why we're looking at things at scrutiny and we're trying to think of questions and sometimes I think they're not really that relevant, or 3 people ask the same question and just change the wording. I don't know whether training would solve that. Good chairmanship might."¹²¹

"Members agreed that having [overview and scrutiny] meetings diarised would ease organisation but emphasised that the chairmen should be strong in cancelling meetings with limited business with the agreement of group spokespeople."¹²²

Leading and Involving the Committee

"A good chairman should involve everybody."

"In response to a question, Mr Yardley suggested that the most desirable qualities in a chairman were the ability to work on behalf of the committee rather than a political party and be fair to all members... [and] the ability to judge the mood of the committee and synthesise the comments of all members into a report that the whole committee could sign up to."¹²³

9.6.3 Members also discussed the payment of overview and scrutiny committee chairmen and vice-chairmen. It was agreed that chairmen should continue to receive a special responsibility allowance, as agreed by the Independent Remuneration Panel, however this should not be shared with the vice-chairman unless the vice-chairman had taken on a significant amount of the responsibility. It was therefore agreed that if the chairman was unable to undertake the substantive role for three months (i.e. one quarter) or more then the allowance would be reallocated to the vice-chairman for that period.

9.7 Conclusions

9.7.1 It is evident that there are issues around some councillors not being clear on the role of overview and scrutiny, nor the expectations on them when sitting on an overview and scrutiny committee.

9.7.2 There are also concerns around the skills required of overview and scrutiny members and the level of background knowledge; these issues can be at least partially addressed through training (see Section 10) and strong briefing materials being provided for members prior to meetings. One councillor suggested that providing a one-page executive summary of each report on an overview and scrutiny agenda could be useful. Alternatively, the Clerk to the Communities and Local Government Select Committee informed members that "the main role of committee staff was

¹²¹ Councillor interview (Lib Dem)

¹²² Minutes of the Corporate Services Overview and Scrutiny Committee meeting held on 01/12/09

¹²³ Minutes of the meeting of the Corporate Services Overview and Scrutiny Committee meeting held on 01/12/09

to produce a brief of suggested questions. Approximately 25-30 questions were produced for each 2 hour session, and each question was preceded by half a page to a page of background research to explain the context of the question. This allowed members to quickly gain an understanding of the topic and the areas of questioning that would need to be covered. The questions were not a script, rather a prompt to ensure that all of the necessary ground was covered"; this is another idea that could be taken forward, particularly as several councillors noted how useful they had previously found suggested questions. The scrutiny team has produced suggested questions in the past for all items, however this was stopped for most items in response to comments from members that they did not want to be "spoon fed". Resuming this practice, therefore, will require approval from members to ensure that it is not seen as officers "leading" overview and scrutiny.

9.7.3 With regard to members being prepared to fulfil their roles and not expecting to be "spoon-fed with everything", one councillor stated that "I think it's down to group leaders to make sure they appoint people to scrutiny who are going to read their papers and play an enthusiastic part in it.¹²⁴" The need for group leaders to take some responsibility for the overall success of scrutiny also came up in relation to party politics, therefore the importance of group leaders publicly supporting scrutiny and committing to making it work should not be underestimated.

9.7.4 The right chairmen also need to be appointed to lead the committees and get the most out of reviews. Political considerations need to be taken into account (see Section 6.10), and clear responsibilities need to be outlined to ensure all members understand and respect the chairman's role.

9.8 Recommendations

9.8.1 It is recommended that:

- if the chairman is unable to undertake the substantive role for three months or more then the allowance would be reallocated to the vice-chairman for that period;
- suggested questions and briefing notes be provided for major items at overview and scrutiny committee meetings;
- briefing notes include links to websites for councillors to carry out further research if required;
- group leaders should take overall responsibility for their party members fulfilling their roles and responsibilities on overview and scrutiny committees; and
- a quarterly scrutiny newsletter be sent to all members outlining key successes and updates on reviews.

¹²⁴ Councillor interview (Con)

10. Training

- 10.1 When asked about training, most members felt that the training currently provided would be sufficient if it was taken up by more councillors. The limited current take-up of training was attributed both to time limitations (“the difficulty with training is there are a great number of amateurs but only a limited amount of councillors’ time available to go to training¹²⁵”) and councillors’ enthusiasm (“members do shy away from training sessions¹²⁶”).
- 10.2 One of the most popular issues identified as a training need for councillors was “why we’re there and what we’re trying to do¹²⁷.” As one councillor highlighted, “I think if [councillors] were told why it was a good idea at the very beginning, and they realised why they did it, why the council did it, and what it could achieve, then I think people would be more receptive to it in the first place, but also better at it...They might start asking the right questions...questions that change the decision before it’s made.¹²⁸”
- 10.3 There was also some consensus that while training was necessary for new councillors, scrutiny was also something that “you generally learn as you go along, it’s almost like a personal improvement process.¹²⁹” Some councillor suggested that it could be a good idea to insist that councillors took part in some scrutiny training before taking up places on scrutiny committees, in a similar way to licensing or planning; the committee, however, agreed that this would be difficult to implement, and therefore the focus should be on training new members and providing annual training for all members.
- 10.4 With regard to scrutiny skills, “the ability to ask a coherent and relevant question¹³⁰” was the most popular answer amongst members:

“If I was to pick on one thing it would be to improve councillors’ questioning skills.¹³¹”

The RADA questioning skills training that had been delivered in 2008-09 was specifically mentioned as a positive training session.



125 Councillor interview (Ind)
126 Councillor interview (Con)
127 Councillor interview (Lib Dem)
128 Councillor interview (Con)
129 Councillor interview (Con)
130 Councillor interview (Con)
131 Councillor interview (Lib Dem)

10.5 Further specific training needs were also raised throughout interviews with councillors, including:

- Speed reading;
- Voice projection;
- Understanding the formalities of meetings e.g. how to address the chairman;
- Team building;
- Debating skills; and
- The context in which the council operates, including its relationships with partners and its internal processes.

10.6 Section 7.6 also highlighted limited knowledge amongst some councillors over opportunities to challenge the cabinet, whilst some councillor interviews indicated that some councillors did not make the most of opportunities to request information from officers on forthcoming decisions. It was therefore agreed that opportunities to participate in the decision-making process at all stages should be highlighted to councillors during the new member induction process, though it was noted that when requesting information from officers, appointments should be made so as not to infringe on officers' work time.

10.7 Several councillors suggested that it would be useful for new councillors to be provided with a short "idiot's guide" to scrutiny outlining contact details for the team and the powers available to members such as Councillor Call for Action and call-in, to summarise and simplify the Councillor's Guide to Overview and Scrutiny already provided.

10.8 Training for chairman was also considered important, as the role of the chairman in ensuring effective scrutiny was vital (see Section 6.10 and 9.6). It was noted that the Learning and Development section allocated funding for training for overview and scrutiny chairmen, and it was important that opportunities for training were highlighted.

10.9 Recommendations

10.9.1 It is recommended that:

- an annual 'scrutiny skills' training session be held for all members, to include questioning skills and 'what is overview and scrutiny?';
- opportunities for chairman skills training be highlighted to all overview and scrutiny chairmen, and the take up of this training be monitored by the Overview and Scrutiny Coordinating Committee;
- a one-page reference sheet on scrutiny and powers available to members be produced by the overview and scrutiny team; and
- a larger portion of the new member training be dedicated to overview and scrutiny.

11. Meetings

11.1 The format of overview and scrutiny meetings was discussed throughout the review, in particular the use of more informal meetings and workshops in response to suggestions by some officers that the current formal style could be adversarial, plus comments from councillors that informal meetings lent themselves more to public involvement and also encouraged more open discussion.

11.2 Despite some concerns over working groups being difficult to manage (see Section 8.7), the informality of these was viewed positively:

“If you have a working group who are given a problem to consider as opposed to doing it through meetings it means that some ideas can be bounced off each other, even more extreme ideas – you may be able to talk it through and get something really innovative and bring out sensible solutions...I think putting people into meeting rooms in Maidstone House would work better than the town hall as it lends itself to enabling people to think through ideas¹³²”.

“The informal settings that we’ve had where we’ve gone out and interviewed people externally, of course that’s in a more relaxed atmosphere, and you can talk across people as opposed to a question and answer situation.¹³³”

11.3 A councillor suggested that if issues were discussed in committee meetings rather than working groups, committees could act more informally to allow a better dialogue and flow of ideas:



“There are people out there who will know more on a specific subject than we do, and rather than spending three and a half hours in a committee room asking the same questions...perhaps that workshop idea is better to get more people in who know more than we do, talk to them more candidly, talk to them more openly; they’re more comfortable in that situation. I don’t care who you are, it’s got to be intimidating coming in.¹³⁴”

¹³² Councillor interview (Con)

¹³³ Councillor interview (Lib Dem)

¹³⁴ Councillor interview (Con)

11.4 The issue of web-casting in the case of informal meetings and workshops was considered; while it was considered important to web-cast meetings where possible, if a more positive outcome was likely from holding a workshop-style meeting, this should take precedence over web-casting, provided members of the public could still attend the meeting itself. It was also possible to leave the web-cast on and use microphones to feed back results from workshops so that the key outcomes from those meetings were still broadcast on the internet for interested residents. [Insert here statistics on hits for scrutiny web-casts]



11.5 Public Engagement

11.5.1 One of the Centre for Public Scrutiny four principles of effective public scrutiny¹³⁵ states that scrutiny “enables the voice and concerns of the public and its communities.”

11.5.2 All councillors agreed that public engagement was important and that reflecting the concerns of residents was a key role for scrutiny; it was, however, noted that most residents would only look to participate in council business where they had a particular problem or concern. The role of the councillor was to represent residents in their ward and ensure that their concerns were addressed, whether through scrutiny or other means.



¹³⁵ Centre for Public Scrutiny *About Us* <http://www.cfps.org.uk/about-us/> [Accessed: 11/01/10]

11.5.3 In order to ensure that residents were able to participate in scrutiny where they wished to do so, members agreed that this should be made as easy as possible through publicising meetings, holding meetings away from the town hall and making meetings informal and easy to understand:

"The council doesn't belong to councillors, the council belongs to the people out there - we need to get out and show them that we're there. We're so comfortable locked up in our little tower there, literally elevated above the street; we need to get out more. People are much more likely to come out on their territory, rather than coming all the way into Maidstone when you can't park and it's rush hour - all these trivial things, but they matter. We need to get out and that's how you get the public involved in scrutiny more.¹³⁶"

"Some people that I've known that have attended Scrutiny as well as planning committee seem to be lost in the awe of the occasion - do you know what I mean? When they come, yes they come to air a view, but they're taken aback by the procedures.



Make it as informal as anything and if people want to come - let them be part of the committee.¹³⁷"

Recording external meetings requires an additional member of staff to attend the meeting to operate the camera, whilst additional technical training for overview and scrutiny staff and wireless broadband at meeting venues would be required to web-cast live. Therefore, the same principle applies as outlined at 11.4, where the benefits of holding a meeting in a community venue should outweigh the need to web-cast, as residents can more easily attend the meeting to have their say. Clearly this should be considered on a meeting-by-meeting basis.

11.5.4 Councillors also referred to Councillor Calls for Action (CCfAs) as positive ways of engaging the public, as these referred to issues of very specific, local concern and gave residents the opportunity to speak directly to the council on issues affecting them: "to be able to allow members of the

¹³⁶ Councillor interview (Con)

¹³⁷ Councillor interview (Lib Dem)

public to vent their frustrations in an organised manner is just fantastic, because where else do they have that opportunity?¹³⁸”

11.5.5 Councillors suggested that as engaging residents on issues that did not directly affect them could be challenging, engaging parish councils would be a useful way of getting local perspectives on issues being reviewed. It was highlighted, however, that not all areas were parished and in those areas without parish councils, alternative groups to engage with needed to be identified, for example Multi-Agency Partnerships.

11.6 Committee Meetings

11.6.1 Members considered ways of improving the running of meetings. One option suggested was the use of time limits on items in order to focus discussion and to provide witnesses - and in particular external witnesses - with a guide as to what time their item would start and finish to make travel and childcare arrangements simpler. Most members agreed that time limits were useful, however they should be informal and at the discretion of the chairman in order to avoid stifling discussion.

11.6.2 Members also discussed the use of pre-meetings, as used by select committees to identify the aims of each witness session and consider potential questions. It was agreed that these should not be held as a matter of course, however they should be an option for chairmen if a particularly complicated or technical issue was on the agenda. It was essential that these pre-meetings were public.

11.7 Recommendations

11.7.1 It is recommended that:

- a list of parish councils and community groups be maintained by the scrutiny section in order to obtain local views on borough-wide issues being reviewed;
- public pre-meetings be held when complicated or technical issues are to be discussed to ensure discussion is constructive rather than merely fact-finding;
- informal time-limits for agenda items be approved by the chairman and sent to all committee members to focus discussion and provide information for witnesses;
- chairmen work with the overview and scrutiny team to identify opportunities for workshops and informal-style meetings to facilitate open discussion and creative thinking;
- all meetings remain public, however holding meetings in a format conducive to constructive discussion should take preference over web-casting to ensure positive results for residents;
- opportunities to hold meetings across the borough should be actively sought. These meetings should be public but not necessarily web-cast due to the additional staffing requirements for this.

¹³⁸ Councillor interview (Lib Dem)

12. Work Programming

12.1 Many members and witnesses agreed that the choice of topic was one of the most crucial aspects of ensuring successful scrutiny, and this included finding a balance of 'overview' and 'scrutiny' to ensure that all roles were fulfilled.

12.2 There has been some concern in recent years that committees have focussed more on 'overview' than 'scrutiny'; this is an issue across many local authorities, with the results of the 2008 CfPS Annual Survey indicating that "the most frequent response in terms of scrutiny being most effective was policy review followed by policy development. Respondents felt that they were least effective at the scrutiny of partnerships and holding the executive to account.¹³⁹" It was also noted that this was an issue for select committees:

"A councillor asked about the split between policy reviews and holding to account, and Mr Yardley stated that much of the direct 'holding to account' work was done in writing and largely staff driven. Policy reviews were of more interest to members.¹⁴⁰"

However, "the select committee chairmen had produced a list of ten core tasks which select committees were required to take into account when planning their work, and they were required to report on their work against these core tasks annually. Whilst not prescriptive, this list helped to ensure a balance of work by committees.¹⁴¹"

12.3 Several councillors noted the importance of maintaining a flexible work programme and not scheduling too many items at the start of the year as "work programmes evolve of necessity; you can't forecast what will happen in 12 months time¹⁴²" and "stuff does occasionally crop up [which requires] extra resources and [is] extra work.¹⁴³"

12.4 Pre-Decision Scrutiny and the Forward Plan of Key Decisions

12.4.1 Councillors felt that more could be made of pre-decision scrutiny to ensure that backbench members felt involved: "to be able to challenge earlier and to get involved...I think would be a lot better and would make people feel a lot better.¹⁴⁴"

12.4.2 To get involved in developing reports prior to decisions being taken, overview and scrutiny members need to be aware of decisions coming up. If councillors are aware of these, they can choose which issues they become involved in, rather than cabinet suggesting issues for scrutiny to

¹³⁹ Centre for Public Scrutiny Annual Survey 2008

¹⁴⁰ Minutes of the Corporate Services Overview and Scrutiny Committee meeting held on 01/12/09

¹⁴¹ Ibid

¹⁴² Councillor interview (Con)

¹⁴³ Councillor interview (Lib Dem)

¹⁴⁴ Councillor interview (Lib Dem)

look into, which could be seen as cabinet influencing the work programme. The Forward Plan of Key Decisions is currently the only formal method of publicising forthcoming decisions; this highlights any decisions to be taken within the next four months that:

- Result in the local authority incurring expenditure which is, or the making of savings which are, equal to the value of £250,000 or more; or
- Are significant in terms of their effects on communities living or working in an area comprising one or more wards in the area of the local authority.

12.4.3 A key decision cannot normally be taken until 5 clear days have elapsed since the publication of the forward plan on which it appears. This is subject to:

General Exception

If a key decision has not appeared in the forward plan, it can still be taken if:

- a) The decision must be taken by such a date that it cannot wait for the publication of the next forward plan;
- b) The proper officer has informed the chair of the relevant overview and scrutiny, in writing, by notice, about the decision;
- c) The proper officer has made copies of that notice available to the public at the council offices; and
- d) At least 5 clear days have elapsed since the proper officer complied with (b) and (c).

Special Urgency

If, by virtue of the date by which a decision must be taken, General Exception cannot be followed, then the decision can only be taken if the chairman of the relevant overview and scrutiny committee agrees that the decision cannot reasonably be deferred, or in the chairman's absence, the agreement of the Mayor.

12.4.4 Councillors raised concerns over the forward plan and members' use of this during the course of the review:

"I think the forward plan gives us an idea but that is only in connection with big decisions. But the reports which are being written all the time, we don't see, and I feel maybe there are items there we ought to see."¹⁴⁵

"I don't think we use the forward plan enough."¹⁴⁶

With non-key decisions not appearing on the forward plan, some key decisions being on the forward plan for only one or two months (and

¹⁴⁵ Councillor interview (Con)

¹⁴⁶ Councillor interview (Lib Dem)

others repeatedly delayed), and members' use of the forward plan being limited, opportunities for meaningful pre-decision scrutiny are restricted.

12.4.5 When interviewing the Overview, Scrutiny and Localism Manager from Kent County Council (KCC), members were informed that as part of KCC's review of overview and scrutiny, the idea of extending the forward plan to cover six months was being considered¹⁴⁷. Tunbridge Wells Borough Council uses a forward plan that includes all key and non-key decisions to be taken where these are known about, for example the December 2009 forward plan includes decisions to be taken up until October 2011 and consists of mostly non-key decisions. While the committee appreciates that it is not practical to expect all future decisions to appear on such a plan, if as many forthcoming decisions as possible were included, this would give backbench members a far greater opportunity to be involved in decisions at a developmental stage. This would be more positive than "the opportunity to comment on draft reports [which] is unlikely to result in changes of other than a superficial nature."¹⁴⁸

12.4.6 It is, of course, important to ensure that pre-decision scrutiny should be as selective as overview: "overview and scrutiny would fail if all it did was try to look at every decision before it reached cabinet. It was important to look at the forward plan and decide which specific areas overview and scrutiny could influence and so would be beneficial reviewing."¹⁴⁹

12.5 Setting the Work Programme

12.5.1 In order to identify topics for review at the start of each municipal year, an overview and scrutiny work programming workshop is held for all members. Prior to the workshop, review ideas are sought from members of the public and the council's partners, including the voluntary and community sector, and all



¹⁴⁷ Minutes of the Corporate Services Overview and Scrutiny Committee meeting held on 06/10/09

¹⁴⁸ Leach, S (2009) *Party Politics and Scrutiny in Local Government: Clearing the Hurdles* Centre for Public Scrutiny p.13

¹⁴⁹ William Benson, minutes of the Corporate Services Overview and Scrutiny Committee meeting held on 07/07/09

councillors are asked to submit ideas. At the workshop, senior officers from the council and representatives of external partners attend to discuss their upcoming work with councillors, after which councillors sit with their fellow committee members to brainstorm ideas for reviews in the coming year. These ideas are then developed by the overview and scrutiny team before being discussed by the committees at their first meetings of the year, after which a final work programme for the year is agreed.

- 12.5.2 Opinions about the workshop amongst councillors were varied; whilst most councillors agreed that involving officers and having an open discussion was very positive, it was suggested that having this kind of workshop for each committee, rather than all committees at once, would be more beneficial as it would focus the discussion. If councillors wished to put forward ideas for another committee than one that they were on, they could do so via the scrutiny team. It was also suggested that officers could be asked to outline any problems that they encountered when trying to deliver their objectives, rather than only highlighting the positives, so that overview and scrutiny could help to look for solutions.

"[The workshop was] brilliant. Really good. I'd like to see more officers from departments there...the natural human reaction when you're asked to come in and stand there with a couple of boards behind you is to show off what you're doing. What they actually need to be doing is coming in and saying 'this is our objective and this is what's stopping us doing it as well as we can'.¹⁵⁰"

"When we have a workshop for selecting topics it covers all committees. Would we get better topics within our scrutiny areas if we just had a meeting of that scrutiny committee? With the relevant officers who have responsibility for the areas which [each committee] has responsibility for.¹⁵¹"

- 12.5.3 With regard to identifying topics for review, the committee also heard that "it was good practice to discuss with officers and the public what issues/areas would be worth reviewing. Considering customer complaints, press articles and performance indicators would be good starting points for this work. It was also useful for committees to identify what they did not want to look at. Scrutiny could add real value by joining up what different departments were doing, both internally and externally.¹⁵²"
- 12.5.4 Topics for review at Maidstone are currently subject to very few constraints – any review is considered provided it has not been reviewed by overview and scrutiny in the previous two years. Scoping reports are produced for each review idea to identify where scrutiny could have an impact and how the idea meets corporate objectives, and members consider whether there is public interest in the issue before agreeing a final work programme. Some authorities use clear topic selection criteria

¹⁵⁰ Councillor interview (Con)

¹⁵¹ Councillor interview (Lib Dem)

¹⁵² William Benson, minutes of the Corporate Services Overview and Scrutiny Committee meeting held on 07/07/09

to avoid political bias and ensure weight is given to those issues of clear priority for a high number of residents and where influence is likely, for example the "PAPER Analysis" used by South Cambridgeshire District Council:

Public Interest: the concerns of local people should influence the issues chosen for scrutiny.

(1= low public interest, 2=medium public interest, 3=high public interest)

Ability to change: priority should be given to issues that the committee can realistically influence.

(1= little chance of changing, 2=reasonable chance, 3=good chance)

Performance: priority should be given to the areas in which the council, and other agencies, are not performing well.

(1= good performance, 2=moderate performance, 3=low performance)

Extent: priority should be given to issues that are relevant to all or large parts of the district.

(1= only one ward, 2= multi-ward issue, 3=the entire district)

Replication: work programmes must take account of what else is happening in the areas being considered to avoid duplication or wasted effort.

(1= already well covered, 2=already partly covered, 3=not already covered)

An additional score is awarded to each suggestion to reflect its impact on the council's service priorities:

6 = Will make a direct, substantial and quantifiable impact (e.g. in a higher PI performance) on the council's service priorities.

3 = Will make some impact on service priorities, but it is not quantifiable.

0 = No significant impact on service priorities.

12.5.5 There is value in both choosing topics that are on the cabinet forward plan for review, and identifying completely new topics. As Hugh Yardley, Clerk to the Communities and Local Government Select Committee, highlighted:

"Some of the most successful select committee inquiries were ones that 'shone a light on a dark corner', considering issues that were not currently on the cabinet radar. Whilst issues of great public and media concern were clearly important, they were not the only options.¹⁵³"

Members also agreed that looking at issues of interest to the cabinet was beneficial provided this was led by scrutiny rather than the cabinet; it was

¹⁵³ Minutes of the Corporate Services Overview and Scrutiny Committee meeting held on 01/12/09

noted that by carrying out a review of an issue on the forward plan, scrutiny would be in sync with the work of officers and the cabinet and have more opportunity to influence that process.

12.5.6 A councillor also highlighted the need to complete work programming quickly in order to begin the work of the committee:

"I think we start too slowly and it takes too long to bed in the work programme and get going on scrutinising the issues. I think the work programming workshop is a reasonable idea but I would like to see the establishment of the work programme follow within the next couple of weeks. I would like to see councillors asked to commit to a bit more work in the first month to establish it.¹⁵⁴"

12.5.7 The first meeting of an overview and scrutiny committee meeting is usually dedicated to interviewing the relevant cabinet member with regard to their plans and priorities for the coming year. However, some councillors suggested that this session had little value and it would be more helpful to receive a written statement of priorities and then invite the cabinet member when a particular issue required discussion:

"Get the cabinet member to write a report, and then [the committee can] discuss and debate it. Get some real debate going around the issues, go through the bullet points of what the cabinet member's said they're going to do, then you can come up with some ideas to feed in. And then, if two meetings down the line, they're not doing what overview and scrutiny suggested, call them in and give them hell by all means, but I think structuring it in a very rigid way stifles any thought about the policy and does just make it about personalities."

12.6 Recommendations

12.6.1 It is recommended that:

- the Forward Plan of Key Decisions be amended to include non-key decisions and cover at least 6, but up to 12, months. Cabinet members and directors should add items to this as soon as they are known to enable pre-decision scrutiny to take place as early as possible;
- work programming workshops be held by each committee individually, with officers relevant to the terms of reference of that committee attending those workshops to discuss forthcoming work and any ideas of the committee;
- performance indicators, customer complaints and press articles be used to inform work programming, alongside existing methods of press releases and direct contact with partners;
- cabinet members should submit a written statement of priorities and plans for the municipal year to the June meeting of each overview and scrutiny committee, rather than attending in person; and

¹⁵⁴ Councillor interview (Lib Dem)

- the PAPER analysis method used by South Cambridgeshire District Council to priorities topics for review be used as a tool for work programming, with the final decision on review topics remaining with the committee.

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13. Resources

- 13.1 Maidstone Borough Council has strong support for overview and scrutiny both in terms of its dedicated team and budget. Only 36% of district councils in England and Wales that responded to the CfPS 2008 Survey have specialist support, compared to 55% of county councils, 69% of London Boroughs, and an average of 47% across all authorities.
- 13.2 The number of dedicated overview and scrutiny officers is also higher for Maidstone than average for districts, with 2.4 FTE officers compared to an average of 1.4. The average for all authorities was 2.8 FTE officers. These figures apply only to authorities with dedicated support; when authorities with no dedicated support are included, the average number of FTE officers for overview and scrutiny in district authorities is only 0.94 (or 2.08 for all authorities).
- 13.3 Despite having above-average levels of dedicated support for overview and scrutiny, councillors were keen to ensure that support was not reduced, with several councillors stating that they believed the section to be understaffed to deal with the ambitions of the committees and councillors:

"It would be difficult for scrutiny to operate without scrutiny officers! Sometimes I feel at the moment that perhaps [scrutiny] hasn't got the resources...if we really were trying to work even more effectively than we are at the minute, I would question whether we could handle it. Major one-offs, or major topics, getting involved earlier...if we're going to be involved earlier in decisions that are going to be made, would scrutiny be able to handle it?¹⁵⁵"

"I think you do quite enough. My committee has officially complained about the work of officers being hampered by the lack of allocated time.¹⁵⁶"

Concern was raised by members with regard to the reduction in FTE officers from 3 to 2.5 when the Overview and Scrutiny Partnership was entered into with Tunbridge Wells Borough Council ("Everybody tells me that partnership working's got to be, but not if it impacts adversely on what we try and do, I don't think. There is always a question mark in the back of my mind about [the scrutiny partnership]¹⁵⁷"); when the partnership was created a part-time support post was included to back-fill for the 0.5 officer time lost, however this post was taken as a saving in the first year of the partnership. A further issue at the time of the interviews with councillors was the reduction in FTE officers to 2 for part of the duration of one officer's maternity leave. Members felt that while the committees remained supported, it was important that ongoing support for overview and scrutiny was not permanently reduced to this level as this reduced the capacity of the committees to carry out scrutiny

¹⁵⁵ Councillor interview (Lib Dem)

¹⁵⁶ Councillor interview (Ind)

¹⁵⁷ Councillor interview (Lib Dem)

at the level councillors required. In light of the current economic climate it would be difficult to request additional resources. The scrutiny partnership will be reviewed in April 2010 and the matters raised within this report will need to be considered at that time.

- 13.4 Overview and scrutiny also has a dedicated budget of £2,000 per year for professional services (for example, payment for expert witnesses) plus additional funds for printing reports and agendas. This budget could also be used to provide additional research support and could be used by the Scrutiny Coordinating Committee to fund additional support and research when required.
- 13.5 Leach states that "the capacity of overview and scrutiny to gather relevant information, identify and compare viable alternatives, and carry out effective means-ends analysis is of course heavily dependent on the organisation capacity it can draw upon to carry out such tasks. Such capacity is in turn dependent on officer support – not just on the existence of adequately-funded dedicated support, but also on the attitude or behaviour of mainstream officers, at all levels.¹⁵⁸" The remainder of this section will therefore look at the role of scrutiny officers as well as the support received from 'mainstream officers'.

13.6 Role of Scrutiny Officers

- 13.6.1 Councillors identified a range of roles for overview and scrutiny officers, despite concern from some members that the difference between the scrutiny officer and committee clerk roles was not always appreciated. Roles identified included:

Administration

Members acknowledged the administrative side of the overview and scrutiny officer role, including preparing agendas, writing minutes and arranging meetings, but argued that "that is not the most important thing by any means¹⁵⁹" and "the minute taking is the lesser part of the role.¹⁶⁰"

Advice

It was also stated that "a good scrutiny officer is able to guide the committee to the right lines of investigation¹⁶¹" and "provide advice with regard to what kind of questions can be asked.¹⁶²" Councillors also suggested that the scrutiny officer was there to "help the chair to control the meeting and give procedural advice.¹⁶³"

¹⁵⁸ Leach, S (2009) *Party Politics and Scrutiny in Local Government: Clearing the Hurdles* Centre for Public Scrutiny p.14

¹⁵⁹ Councillor interview (Con)

¹⁶⁰ Councillor interview (Lib Dem)

¹⁶¹ Councillor interview (Ind)

¹⁶² Councillor interview (Lib Dem)

¹⁶³ Councillor interview (Con)

Several councillors did suggest that the role of the scrutiny officer in the meeting could be strengthened so that the officer provided more challenge to members: "I think it wouldn't be a bad thing if you could agitate us a little bit more...people respond to being challenged¹⁶⁴" and "scrutiny officers need to have the authority to interrupt and/or advise the chairman of any indiscretions by members.¹⁶⁵"

Report Writing

Councillors highlighted report writing as a key skill for overview and scrutiny: "to go away with the information like you do, and the reports that you're writing, what would we do without them? We'd be lost! To collate it and get it down as it is, that's as important as doing the review.¹⁶⁶"

Research

Research was the most popular answer amongst members when asked what they considered the role of overview and scrutiny officers to be, though it was noted that "the committees have officers to undertake the research, but it is the councillors' responsibility to read what is provided.¹⁶⁷"

- 13.6.2 Some councillors also recognised that the overview and scrutiny team was a resource for scrutiny members - "information – no problem, be quite happy to ring and [the scrutiny officer] always gets back quite promptly¹⁶⁸" – however this was not the case across all members and may therefore need to be emphasised to members joining scrutiny. It was acknowledged that requesting information from the overview and scrutiny team prior to meetings, rather than requesting further information at meetings, could also lead to more productive scrutiny:

"If it's a question that I've got a particular interest in then I should be able to have easy access to [more information] rather than come to the meeting and say 'where do I get this from?' and then of course I'll say 'can we bring this back next month because I can't ask a question because I didn't know where the information was'.¹⁶⁹"

It was, however, pointed out that requests for research needed to be limited to scrutiny work, rather than general council work, due to constraints on resources.

13.7 Council Officers

- 13.7.1 The council's constitution states:

¹⁶⁴ Councillor interview (Con)

¹⁶⁵ Councillor interview (Lib Dem)

¹⁶⁶ Councillor interview (Lib Dem)

¹⁶⁷ Councillor interview (Ind)

¹⁶⁸ Councillor interview (Lib Dem)

¹⁶⁹ Councillor interview (Lib Dem)

Any Overview and Scrutiny Committee or Sub-Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing the documentation, in fulfilling the Overview and Scrutiny role, it may require any Member of the Executive, the Head of Paid Service, and/or any senior officer to attend before it to explain in relation to matters within their remit:

- (i) Any particular decision or series of decisions;
- (ii) The extent to which the actions taken implement Council policy;
or
- (iii) Their performance.

And it is the duty of those persons to attend if so required.”

(Overview and Scrutiny Procedure Rule 14)

- 13.7.2 Officers within the council can therefore be called upon to assist overview and scrutiny in its work and are a valuable resource.
- 13.7.3 Officers within the council need to see overview and scrutiny as a valuable stage in the policy- and decision-making process to ensure that scrutiny is consulted and involved in a meaningful way in the work of the council. The relationship between senior officers and scrutiny consequently needs to be developed and nurtured.
- 13.7.4 Senior officers were sent a questionnaire to identify the role that they saw overview and scrutiny playing in the work of the council, along with their experiences of scrutiny and where they believed that improvements could be made. Officers were clear on the role of overview and scrutiny and were very positive about its potential, with all officers confirming that, in principal, they believed that overview and scrutiny could make an important contribution to the good management of the authority and quality of life in the community. However, there were a number of issues arising from the questionnaires that will need to be addressed if a strong relationship between scrutiny and officers is to be established:

Understanding of the Scrutiny Role

“I suspect that for those people who don’t know and understand the scrutiny role, or don’t see the value in scrutiny...those people may see scrutiny as a barrier to achieving the adoption of policies, procedures and practices. Call-in, clearly, does not make scrutiny popular, but more communication is needed to remind officers that some of the time, call-in can be avoided if consultation with other members is managed properly in the first place.”

“Scrutiny can be seen as a barrier/obstacle to effective and timely decision making. Preparation time for officers can be considerable.”

Committee Meetings

"Sometimes attending committees can be a daunting experience. Generally I have found committees to be ok (with some notable exceptions), but to officers who do not attend often this can be very different. Sometimes it can feel as though members are trying to catch officers out, which is not a nice thing to have to deal with. However, this is somewhat the nature of the role of O&S, so difficult to see how this could be avoided altogether!"

"Generally a positive experience but could be improved if members were better briefed."

"There have been times when members have acted towards officers as if they were members. If officers haven't thought things through properly then robust challenge may be appropriate but there is a risk of erring towards being intimidating where officers are carrying out the wishes of the executive impartially as they should be doing. This further risks officers putting the best possible 'gloss' on things to avoid uncomfortable encounters which may result in issues being missed."

"The format of a scrutiny meeting does not create the right conditions for open and engaging debate. It feels more like a court room where someone is going to be punished. This may be appropriate when decisions by cabinet are going to be challenged but not when officers are seeking from scrutiny a wider perspective on an issue or project at an embryonic stage. Councillors have valid and important perspectives and views on issues that impact upon the borough. I feel that these views are not currently cultivated in the current "court room" style."

"When there has been little preparation [by members] and the meeting is unstructured, or an apparent lack of interest – then attending can feel like a waste of time and energy."

"Experience of the task group meetings is more positive e.g. discussions around election arrangements where the experience felt more of a dialogue underpinning learning and exploration."

Influencing the Work of the Council

"Recommendations do not generally take into account capacity (and funding). Given the tough future ahead for the public sector it would be helpful if this formed a consideration in OSC reports."

"Frivolous challenge only wastes time and delays the council moving forward. 'Extreme views' need to be supported by several members so this does help to rationalise any such challenges – perhaps there is room for some 'education' of the other group leaders who corporately may see the disruption and cost for such challenges when not really supported."

"[Scrutiny is] mostly very positive but there have been occasions where committees have continued to ask for analysis that would be extremely time consuming and of limited value."

"[Constructive challenge can be ensured by] ensuring that proposals brought forward are credible in technical and financial terms."

13.7.5 One councillor highlighted the relationship between overview and scrutiny and officers, noting that: "It's like there's a the same philosophy shared between officers and councillors, that if you're in scrutiny there's a problem, something's gone wrong and we're going to shout at you because you've done something wrong. I don't really believe that to be the case. I think officers that come along and members of the committees need a slight shift in their viewpoint to see scrutiny as a very positive thing, and we're not there to say "you've done something wrong", what we're actually there to say is 'ok, this decision has to be made, either we don't agree with it because of this reason, can we negotiate some way, can we change it?' or 'great decision but let's just alter it slightly to do this, can we do this slightly different?'. Because there's no point turning up to a scrutiny meeting and going 'no it's rubbish', but equally there's no point in turning up and going 'yes it's all good'.¹⁷⁰"

13.7.6 The committee accepted that attending an overview and scrutiny meeting could be intimidating to council officers, particularly those below Head of Service level, and agreed that council officers should receive training prior to attending overview and scrutiny meetings. This would ensure that they knew what to expect and understood everyone's roles, responsibilities and mutual expectations.

13.8 Recommendations

13.8.1 It is recommended that:

- the role of overview and scrutiny officers be clarified to members joining overview and scrutiny;
- officers receive training and advice prior to attending overview and scrutiny committee meetings;
- the level of dedicated officer support for overview and scrutiny remain at its current level of 2.4 FTE officers;
- reports on the overview and scrutiny committee budget be considered by the Scrutiny Coordinating Committee on a quarterly basis;
- a single-sided officer guide to overview and scrutiny be circulated to all heads of service and unit managers and followed by a presentation on the role of overview and scrutiny to unit managers;
- councillors highlight any particular areas of concern to officers prior to committee meetings to ensure the officer can investigate these and provide detailed responses at the meeting; and
- formal feedback from officers and other witnesses be sought following committee meetings and workshops on the quality of

¹⁷⁰ Councillor interview (Con)

scrutiny and the results be reported to the Scrutiny Coordinating Committee on a quarterly basis to inform training and improve meetings.

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14. Conclusion

- 14.1 The perception of “petty party politics” in overview and scrutiny has emerged as one of the major contributing factors to the belief amongst some councillors that “scrutiny is not working as well as it used to”. Many members of the ruling party believed that the opposition was using call-in for political gain and press coverage due to the high number of call-ins during 2008-09; on the other hand, many opposition members believed that members of the ruling party had been whipped due to limited questioning of their own cabinet at some meetings. Each party was keen to stress that these were merely perceptions, rather than fact, and for overview and scrutiny to work effectively in the future, there needs to be a commitment from all parties to work together on scrutiny. The impact of moving from a hung council to one with overall control should also not be underestimated; this change required adjustments for members of all political groups, however it remains the responsibility of all parties to make overview and scrutiny work and the recommendations within this report should help to improve the process and instil confidence in it regardless of political control in the future.
- 14.2 As a member-led process, overview and scrutiny requires its members to be dedicated and proactive, and it is essential that members are clear on their roles and prepared to fulfil their responsibilities. The role of the chairman is also vital, and it is anticipated that ensuring that chairmen and vice-chairmen come from different parties to each other will encourage independence and more collaborative working. Training for all scrutiny members is essential to develop skills and knowledge, and the overview and scrutiny department will need to work with the learning and development department to ensure a coordinated approach to member training.
- 14.3 In the case of both party politics and member responsibilities, the role of group leaders is key. Political group leaders must ensure that appropriate members are nominated to sit on overview and scrutiny committees and that those members fulfil their responsibilities; they must also foster a culture of open debate – between and within parties - and an understanding that participation in a scrutiny review does not necessarily indicate political acceptance of a final policy.
- 14.4 Finally, the choice of topics for review is vitally important; if there is an opportunity for overview and scrutiny to make a real, constructive contribution, whether for residents or to improve the running of the authority, members are more likely to feel engaged in the process and positive outcomes are more likely.
- 14.5 Overview and scrutiny at Maidstone is a valuable function that is well-respected both internally and externally; reviewing the function at this point has allowed members to ensure that it is still fit for purpose and identify those areas with room for improvement to help guarantee an ongoing constructive role for backbench members as ‘critical friends’ to the cabinet, officers and partners.

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Images

Page	Image
14	Members of the Maidstone and Tunbridge Wells Overview and Scrutiny team with John Healey MP, the Minister for Local Government, at the Centre for Public Scrutiny "Good Scrutiny Awards 2008".
33	Councillor Mike FitzGerald, Chairman of the Road Safety Working Group, at the launch of "Fit for the Road – Road Safety Review".
37	Councillors visit the home of a resident to discuss Disabled Facilities Grants.
44	Councillors take part in questioning skills training delivered by the Royal Academy of Dramatic Art (RADA).
46	Borough and Parish Councillors take part in a workshop on Section 106 Agreements.
47	Councillors take part in a workshop on the Strategic Plan.
47	Councillors meet members of the Nepalese Community Group as part of the Diverse Communities Review.
48	Committee meeting in response to a petition in Allington Ward.
52	Work Programming Workshop 2008-09.

Good Scrutiny Awards 2009

Team of the Year

Maidstone & Tunbridge Wells Borough Councils Joint Scrutiny Team

Maidstone and Tunbridge Wells formed a scrutiny partnership in 2007 and have created a joint scrutiny team of 5 staff members and 14 scrutiny chairmen. The team's mission is to "achieve more together than we could alone", focusing on delivering against the CfPS Four Principles of Effective Scrutiny. They have sought to do this through: team meetings to share best practice, joint training sessions, working on joint reviews across both authorities and their innovative "Big Ideas" Days.



“The meeting was constructive, with questions relevant to the discussion, and I had an opportunity to provide information. I found it helpful hearing comments from all sides.”

Tunbridge Wells resident

Impact

The entry demonstrates the clear impact that the two authorities have been able to have through their joint approach. For example a joint review of Kent Highways has led to a new customer charter with clear service standards - the first time that Kent Highways had acted upon a scrutiny review.

The joint approach has enabled them to pool resources and learn from each other – for example improving their budget scrutiny process through joint training and support. A commitment to involving the public has led to recommendations and service improvements coming directly from public inputs, for example in amending the concessionary fares scheme in Maidstone and improving the waste and recycling service in Tunbridge Wells.

Why shortlisted

For smaller councils, resourcing scrutiny can be a challenge. Maidstone and Tunbridge Wells' joint team enables them to maximize the resources available to scrutiny and also to learn from each other and improve scrutiny practice at both councils.

The entry provided evidence from a range of external sources, from Comprehensive Performance Assessment reports to resident feedback, to demonstrate that the team was delivering a good scrutiny service and leading to improved outcomes for residents.

The entry also demonstrated a strong approach to member development and commitment from members, shown by high attendance rates at scrutiny committees and members leading scrutiny reviews to tackle problems at ward level. The judges felt that this was an outstanding example of a constructive and effective scrutiny team.

Proposed New Overview and Scrutiny Terms of Reference

ALL committees to take responsibility for performance management of the services within their terms of reference.

Corporate Services OSC

Priority: A place with efficient and effective public services

Cabinet Portfolio: Leader & Corporate Services

- Budget
- E-government and IT
- Business transformation
- Complaints
- Customer contact
- Performance management – cross-Council, including CAA
- Risk management
- Communications
- Community engagement
- Legal
- Staffing issues including structure, training and health and safety
- Procurement
- Property
- Asset management
- Revenues and benefits

Environment and Transportation OSC

Priority: A place that is clean and green

Cabinet Portfolio: Environment

- Climate change
- Parks
- Allotments
- Street cleansing
- Waste collection
- Cemetery and crematorium
- Public conveniences
- Environmental health
- Parking
- Highways
- Public transport
- Emergency planning

Leisure and Prosperity OSC

Priorities: A place to achieve, prosper and thrive; and a place to live and enjoy.
Cabinet Portfolio: Regeneration and Leisure & Culture

- Planning
- Economic development
- Business community
- Housing
- Market
- Maidstone Leisure Centre
- Culture (including museum and Hazlitt)
- Tourism
- Leisure including sports and play

Partnerships and Well-being OSC

Priority: A place that has strong, healthy and safe communities
Cabinet Portfolio: Leader & Community Services

- Licensing
- Health
- Crime and Disorder
- Local Strategic Partnership
- Mid-Kent Improvement Partnership
- Sustainable Community Strategy
- Social inclusion and equalities
- Lifelong learning

Co-ordinating Committee

Overall responsibility for overview and scrutiny, including terms of reference, budget and progress of reviews.