

**Corporate Affairs and Audit Committee**

<b>Report title</b>	Scrutiny Review.
<b>Chief Executive or Director</b>	Strategic Director of Finance, Governance and Support
<b>Date</b>	10 October 2018
<b>Purpose of the report</b>	To provide the Committee with an update with regard to a recent review of Scrutiny arrangements.
<b>Summary of the report</b>	A review of Democratic Support took place in 2016 which resulted in changes to scrutiny support. The revised scrutiny arrangements have been in place for over a year and the scrutiny process has been reviewed to ascertain: if those changes have been effective; whether they meet the needs of the members; whether they have improved the Overview and Scrutiny process; whether further changes are required; and whether resources are adequate. The review was undertaken through discussion with affected members / officers, a member workshop and by benchmarking with other Mayoral authorities across the UK. A national inquiry by a government select committee on the effectiveness of scrutiny has also been considered.
<b>If this is a confidential report, which exemption(s) from the Schedule 12a of the Local Government Act 1972 applies?</b>	NO
<b>Decision(s) asked for</b>	That the Committee note the findings.  That the Committee appoints the Members' and Statutory Services Manager as the Council's designated Statutory Scrutiny Officer
<b>Impact of decision(s)</b>	The review of the Scrutiny process will improve the Scrutiny function and make it more effective and fit for purpose.

**What is the purpose of this report?**

1. To provide the Committee with a briefing on the Scrutiny Review.

### **Why is this report necessary?**

2. The report is necessary so that officers/members are aware of the work that has been carried out in order to improve the Scrutiny Process.

### **What decision(s) are being asked for?**

3. That the Committee appoints the Members' and Statutory Services Manager as the Council's designated Statutory Scrutiny Officer.

### **Why is this being recommended?**

4. To update the Committee on the review of the Scrutiny process and ensure the Council meets its statutory duties.

### **Background**

5. Overview and Scrutiny Committees were established in English and Welsh local authorities by the Local Government Act 2000. They were intended as a counterweight to the new executive structures created by that Act (Elected Mayors or Leaders and Cabinets). The remainder of the Council was required to scrutinise the Executive by establishing at least one Overview and Scrutiny Committee.
6. Overview & Scrutiny activities range from largely reactive Scrutiny related activities (such as commenting on Executive activities at key issue stages) to more proactive Overview type activities (such as research-intensive reviews) reviewing policies and their implementation, issuing reports and drawing attention to shortcomings.
7. Local authorities may also conduct 'external scrutiny', considering matters which lie outside the Council's responsibilities. There are specific powers that exist to scrutinise health bodies, crime and disorder partnerships, and Police and Crime Commissioners. Combined authorities are also required to establish Overview and Scrutiny Committees.
8. The legislation in regards to the powers and functions of Overview and Scrutiny Committees, include:
  - Any member of an Overview and Scrutiny Committee has the right to refer a relevant matter to the Committee.
  - Committees may require Executive Members and officers of the authority to appear before them. Individuals from outside the Council can be invited, but not compelled to attend;
  - Overview and Scrutiny reports must receive a response from the Council's Executive within two months;
  - Overview and Scrutiny Committees cannot oblige either the Executive, the Council or external bodies to act upon their findings;
  - Each authority must appoint at least one 'scrutiny officer'. The Local Government Act 2000 made no provision for dedicated staff or financial resources for the Overview and Scrutiny role. However, the 'scrutiny officer' does not have to be a dedicated post, and may be combined with other responsibilities. In Middlesbrough this post is currently vacant.

- There is a requirement for Councils to ensure they have an officer who is the designated Statutory Scrutiny Officer to support and promote the function
9. The membership of the Scrutiny Committees is prescribed by the Constitution and the rules of political balance. The political designation of the Chairs and Vice-Chairs of the Scrutiny Committees is decided by the ruling political group. The selection of members for each committee is undertaken by the individual political groups. All memberships are finally agreed at full Council.
  10. Combined authorities in England are required to establish Overview and Scrutiny Committees by the Cities and Local Government Devolution Act 2016. Further provisions are made by the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 (SI 2017/68):

## **Service Review**

11. Following a review of Democratic Services in 2016, staffing support and the scrutiny process was reviewed, with a view to encouraging greater Member participation/ownership in the Scrutiny function and making the support more robust with fewer resources. As a result, the Council moved away from dedicated Scrutiny Support Officers to generic Democratic Service Officers, and democratic processes are now operated by one team as opposed to three previously.
12. This review assessed the impact and effectiveness of those changes and considered whether further changes to scrutiny were required in order to support these changes.
13. In order to support the changes a Member Development Framework has been implemented, and a number of joint member/officer training sessions and workshops have taken place to facilitate greater understanding of each other's role and to help upskill both members and officers
14. It is felt by both members and officers that staff have adapted well to meeting the challenges of their new generic roles and that there has been increased member involvement and ownership including implementing new selection and planning criteria for scrutiny reviews and an increase in members self-serving by undertaking task and finish groups.
15. Due to a great deal of support from the Chair of OSB in promoting new working practices and a new enthusiasm from a number of new Scrutiny Chairs the processes continue to evolve and improve.
16. As part of the review, discussions have taken place with the Chief Executive, the Mayor, Political Leaders and the Chair of Overview and Scrutiny Board to look at ways in which the scrutiny process can be improved.
17. Areas discussed included scrutiny structures and whether they are inclusive of all areas of the Council, whether they should align with Council service structures and whether topics selected for scrutiny investigation should be reflective of corporate priorities. The format and content/length of reports and the national Select Committee Inquiry of Scrutiny also featured in discussions.
18. A Member Survey and a Scrutiny Workshop have also taken place to gauge member

satisfaction with the service and to discuss with members what has worked well, what has not and to discuss new ways of encouraging community involvement in scrutiny.

19. The House of Commons Communities and Local Government Committee established an inquiry into Overview and Scrutiny in January 2017. A report was published in December 2017, which called on the Government to revise its guidance to local authorities on the use of Overview and Scrutiny Committees. In March 2018 the government responded to this inquiry.

## Findings

20. Strong and effective governance arrangements should incorporate robust scrutiny and there should be no conflict between the ambition of the Council to be the best that it can and the role of scrutiny in driving improvements in services.
21. Discussions with the Chief Executive and the Mayor identified a number of gaps in scrutiny coverage of service areas and an over emphasis in some others. Changes in Council service structures also resulted in some cross over in Scrutiny Panel remits.
22. The selection of topics for review were also discussed, identifying that some officer assumptions were based on historical processes. There were also comments in relation to the length of reports and the number/quality/achievability of some of the recommendations and a lack of political awareness by some officers in relation to scrutiny.
23. Whilst an authority is only legally required to have one Overview and Scrutiny Committee, Middlesbrough Council currently has a scrutiny model that includes an Overview and Scrutiny Board and 6 thematic Scrutiny Panels. By way of comparison, comparable Mayoral authorities around the country generally had between 5 and 8 scrutiny panels (although Mansfield maintains only 3, and Tower Hamlets only 4), with corresponding levels of scrutiny support (between 3 and 12 officers, although most are now moving towards generic committee officer posts, as Middlesbrough has already done). Discussions identified there was no current appetite to reduce the number of panels so close to the end of the electoral cycle.
24. During the review period an exercise took place with the Chair of Overview and Scrutiny Board to consider the above, and it was determined that the remit of some panels should be merged and new panels created. Those changes will ensure that all key areas of the Council are covered and that directorates are not overburdened. It was proposed that the new remits would be introduced from the new municipal year following Council agreement and these are now in place.
25. A number of joint training and workshop events have taken place and further sessions identified, to upskill Members and Democratic Services Officers; to develop chairing skills; consider new ways of working; enable Members to participate and challenge effectively; and to take a more proactive role in the scrutiny process. Whilst these have been successful in their delivery, it is apparent that the enthusiasm and engagement of individual panel Chairs still drives the overall performance, with varied results; in addition, the articulation of effective recommendations is frequently challenging, and is therefore inconsistent. It has therefore been agreed that an annual joint member/officer Scrutiny Workshop will be undertaken to review the scrutiny process and assess what is working well and whether any further changes are required.

26. A set of selection criteria for prioritising scrutiny topics and investigation planning documentation have been implemented to: help panels identify and prioritise topics; ensure any reviews that took place stayed focused and are aligned with the Mayor's Vision; and to evidence that some consideration has been given to how a particular review will add value *prior* to the investment of Overview & Scrutiny resources in it, thereby ensuring that scrutiny resources are used effectively.
27. It was agreed that each panel would look to have two scrutiny reviews per year that were fully supported by officers, however members are able to undertake smaller reviews through task and finish groups without officer support, and feed back to OSB. During the Scrutiny Workshop, Members stated that it had been extremely useful having a selection criteria and that it was critical in selection/prioritising of topics.
28. The Scrutiny Panel Chairs found that having the investigation plan also helped them keep the panel and the final reports more focussed. Feedback from Scrutiny Panel Chairs and officers was that through the workshops and the training, they had felt a lot more confident.
29. The Chair of OSB also felt that this process could be further improved if panels also considered the Council's business imperatives when assessing topics for selection. This has now also been included in the Scrutiny investigation plan as part of the revised process.
30. In their role of holding decision makers to account, the Scrutiny Panels need to provide robust challenge to the evidence provided at Panel meetings. Members of the Panels are committed to developing lines of questioning that ensure they have assurances in the work that is being undertaken. Although a workshop had already taken place on questioning skills it was felt this should be run annually and be open to all other Members, as this would also be valuable to other committees, such as Corporate Affairs and Audit Committee. Members also required some training to improve skills on information gathering and analysis, and report writing.
31. Any five members of the Council, can exercise the right to Call-in, for reconsideration, decisions made but not yet implemented by the Executive. The use of Call-in is a definitive mechanism for holding the Executive to account and has seen a rise in its use within the last 18 months. However, the guidance contained in the Constitution was lacking in any criteria for 'Calling in' decisions and was open to misuse. As a by-product of the Scrutiny Review, the Call-In process and procedure have been revised.
32. Scrutiny in Middlesbrough is well supported by Members, officers and stakeholders, and is valued for the robust challenge it can provide. However, it is perhaps more important that local residents and people can understand the value of scrutiny, and while some have used scrutiny to voice their concerns and engaged proactively with scrutiny, it is still a relatively low number. Scrutiny Panels continue to engage with the public whenever the opportunity arises, but it still remains a relatively little known mechanism outside of the local authority.

## **Improvements**

33. The following measures are to be/have been undertaken in order to improve the scrutiny function:

- a) Appoint the Statutory Scrutiny Officer to support and promote the Scrutiny function and to ensure that appropriate member and officer awareness/training and advice is made available.
- b) The remit of Scrutiny Panels have been revised to ensure that all service areas within the Council are covered equally with regard to the scrutiny process.
- c) Investigation outline template and the scrutiny final report template have been revised to include reference to the Mayor's Vision for Middlesbrough in 2025 - Fairer, Safer, Stronger and the three core strategic themes:
  - i. Business Imperatives – Ensuring that the Council operated efficiently and effectively, so that Physical and Social Regeneration outcomes were maximised.
  - ii. Physical Regeneration – Investing in Middlesbrough to provide and improve facilities which acted to increase the town's reputation, create social opportunity, and improve the Council's finances.
  - iii. Social Regeneration – Working with communities and other public service organisations to improve the lives of Middlesbrough's residents.
- d) A training programme has been put in place to improve and enhance the scrutiny skills of Members.
- e) The Overview and Scrutiny Procedure Rules and the Call-in procedures have been revised and agreed by Council.
- f) More detailed direction/clarity/guidance has been produced for inclusion within the Constitution and the Members Handbook to inform Members on the use of Call-ins; to clarify the role of Members/Officers; to modify the criteria for assessing the validity of a Call-in; and to update the Call-In procedures at the Overview and Scrutiny Board.
- g) Scrutiny workshops have been held to evaluate the effectiveness of the changes that were implemented in 2016/17. It is intended that the Scrutiny Workshop Review will be an annual event to ensure that scrutiny will always be fit for purpose.
- h) Consideration should be given to greater use of Social Media such as Twitter and other social media tools, in respect of promoting and encouraging engagement in the scrutiny function. A Workshop will be arranged for all Members with regard to how to use Social Media effectively in scrutiny and in a Member's day to day role, and how and why in certain instances, Social Media should not be used which will also promote the Members Code of Conduct.
- i) Members requested that a mechanism be put in place to ensure that the Service Area response to the Scrutiny Panel's recommendations is shared with the appropriate Chair of the Scrutiny Panel and the Democratic Services, prior to submission to the Executive.
- j) The final report format was reviewed to enable reports to be more focussed however, the length and content still remain a topic conversation and will be

looked at again during future member/officer workshops.

## **National Scrutiny Review**

34. In September 2017, the Communities and Local Government Select Committee relaunched the national inquiry into the effectiveness of local authority overview and scrutiny committees that had been started by its predecessor earlier that year.
35. The Select Committee published its report on 15 December 2017: <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/369/36902.htm>.
36. In March 2018 the government presented its response to the inquiry (see Appendix).
37. The report stated that scrutiny can play a vital role in ensuring local accountability on a wide range of local issues. It is one of the key checks and balances in the system and the Government is committed to ensuring councils are aware of its importance, understand the benefits effective scrutiny can bring and have access to best practice to inform their thinking.
38. The inquiry outcome was influenced by evidence provided by over 100 local authorities, national bodies and interested parties, some of which has also been used to facilitate discussion in the recent scrutiny workshop.
39. There were a number of recommendations made by the Select Committee, the majority of which the Government did not agree with. The report stated that the Government firmly believes that every Council is best-placed to decide which scrutiny arrangements suit its individual circumstances, and so is committed to ensuring that they have the flexibility they need to put those arrangements in place. Middlesbrough Members agreed with this statement and agreed that being prescriptive would limit the local authority's ability to conduct scrutiny in a way which meets the needs of the Council and local residents.
40. The Government did however acknowledge that the current guidance in relation to scrutiny was issued in 2006 and advised that new guidance will be published later this year.
41. Members and officers showed some real concern at one of those recommendations which included that Overview and Scrutiny Committees should report to an authority's full Council meeting rather than to the Executive, mirroring the relationship between Select Committees and Parliament. It was considered that this would cause unnecessary delay to the decision making process and may extend the length of full Council meetings considerably. Members were therefore not inclined to accept this guidance.

## **Resources**

42. There is no requirement to support the scrutiny function with a specific level of resource, however more Councils are moving away from dedicated scrutiny support teams to the model currently adopted by Middlesbrough. This main reason identified for this, in many Councils, is budget cuts.

43. The Council is, however, required to designate a Statutory Scrutiny Officer. That officer cannot be the Head of Paid Service, the Monitoring Officer, or the Chief Finance Officer, but should be of a specific level of seniority in order to be able to influence key decision makers. In Middlesbrough this post is currently vacant, however it is a role that could be assumed by the Members' and Statutory Services Manager who currently manages democratic processes.
44. The Health Scrutiny function is also a statutory requirement and as such, it is far more demanding than the other areas of the scrutiny function, in terms of commitment and resources. There is a requirement for relevant NHS bodies to engage with local authority scrutiny bodies and to involve scrutiny in the planning of local health services, which means sometimes workload is beyond our control and impacts on our service delivery.
45. Consideration has been given to whether a full time scrutiny resource is required to fulfil the Council's statutory requirements in respect of Health Scrutiny, which could also be used to support the newly formed Joint Health and Wellbeing Board. However, at present no resources are available to fund this role and therefore no changes are recommended.

#### **Other potential decisions and why these have not been recommended**

46. The recommendations made by the Select Committee Inquiry. Many of the recommendations are already in place in Middlesbrough. However, there was no appetite to accept those recommendations agreed in the government response with regard to submission of Scrutiny Final Reports to full Council, as this would impose unnecessary delays in the decision making process and would severely lengthen Council meetings.

#### **Impact(s) of recommended decision(s)**

47. The Council complies with its statutory requirements and ensures that Scrutiny is given an appropriate profile within the Council.

#### ***Legal***

48. Not applicable.

#### ***Financial***

49. Not applicable

#### ***The Mayor's Vision for Middlesbrough***

50. Open and transparent scrutiny supports all of the elements of the Mayor's Vision.

#### ***Policy Framework***

51. The report does not impact on the overall budget and policy framework.



**Wards**

52. The report impacts on all wards equally.

**Equality and Diversity**

53. Not applicable

**Risk**

54. If we do not continue to review, evaluate and evolve the scrutiny process, then corporate governance may suffer.

**Actions to be taken to implement the decision(s)**

55. The appointment of the Members' and Statutory Services Manager as the Council's designated Statutory Scrutiny Officer to be included in the Council's Constitution.

**Appendices**

Government Response to the Communities and Local Government Committee First Report of Session 2017-19 on the Effectiveness of Local Authority Overview and Scrutiny Committees

**Background papers**

As above