

**Report for** Overview and Scrutiny Committee – 15 March 2021

**Title:** Overview and Scrutiny - Protocol Refresh

**Report authorised by:** Ayshe Simsek, Democratic Services and Scrutiny Manager

**Lead Officer:** Robert Mack, Principal Scrutiny Support Officer  
Tel: 020 8489 2921, e-mail: [rob.mack@haringey.gov.uk](mailto:rob.mack@haringey.gov.uk)

**Ward(s) affected:** N/A

**Report for Key/  
Non Key Decision:** N/A

## **1. Describe the issue under consideration**

1.1 The Protocol for Overview and Scrutiny has been refreshed. The Committee is requested to approve the new document for recommendation to Council.

## **2. Recommendations**

2.1 That the draft updated Overview and Scrutiny Protocol be endorsed by the Committee and Cabinet and recommended to Council for final approval; and

2.2 That the remits for each of the Scrutiny Panels be reviewed ahead of the 2022/23 Municipal Year.

## **3. Reasons for decision**

3.1 The Protocol for Overview and Scrutiny has been updated in response to new government guidance, a “Scrutiny Stocktake” and to take on board learning from recent scrutiny activities.

## **4. Alternative options considered**

4.1 The Committee could decide to recommend that the current Protocol be retained.

## **5. Background information**

5.1 The Protocol for Overview and Scrutiny has been reviewed in response to several matters:

- New statutory guidance on Overview and Scrutiny that the Ministry of Housing, Communities and Local Government (MHCLG) issued in May 2019, which suggested the development of an Executive/Overview and Scrutiny Protocol by local authorities to “define the relationship between the two and mitigate any differences of opinion before they manifest themselves in unhelpful and unproductive ways”;

- A “Scrutiny Stocktake” undertaken in early 2019 by an external facilitator, working with Scrutiny Chairs that highlighted some areas where practice could be improved; and
  - Learning from scrutiny activities since the current Protocol was drafted in 2012 as well as current custom and practice.
- 5.2 Effective scrutiny is dependent on the active involvement and support of all constituent parts of local authorities and scrutiny cannot be expected to be successful without this. It is particularly important that it is led and owned by elected Members though as they have a key role in setting and maintaining the culture of an authority.
- 5.3 Creating an organisational culture that fully supports scrutiny work can help ensure that it adds value by improving policy and decision making and the efficient delivery of services. Low levels of support for and engagement with scrutiny can lead to poor quality and ill focused work that serve to reinforce the perception that it is of little worth or relevance.
- 5.4 The performance of the scrutiny function is not just of interest to individual local authorities. Its effectiveness is often considered by external bodies such as regulators and inspectors (e.g. Ofsted, Peer Reviews) and highlighted in public reports. Failures in scrutiny can therefore help to create a negative public image of the work of the organisation as a whole.
- 5.5 There has been a particular clear need to draw on lessons from places where ineffective scrutiny has been deemed to have contributed to severe service failures, such as Mid Staffordshire and Rotherham. The Centre for Public Scrutiny identified three key questions for scrutiny Members arising from these:
- “How do I know that the Council will be aware when significant problems rear their head and do I have confidence that this information will be acted on?”
  - Does scrutiny itself have access to information which will allow me to confidently challenge, on the basis of evidence, the Council’s assertions about the quality of a service?
  - Do Council officers and officers from other agencies agree and accept that scrutiny has this role to play?”
- 5.6 The need for a review should not be taken to imply that there are currently significant shortcomings in scrutiny in Haringey. Both the Scrutiny Stocktake and the Peer Review highlighted areas of good practice and strength. Work planning and support were both highlighted in these. They also commented that Members work very well together, including those from different political groups. There was a high level of enthusiasm amongst Members and attendance at meetings was very good.
- 5.7 The review was begun following a report that was made to the Overview and Scrutiny Committee on 3 June 2019, which recommended that the Protocol be updated in response to all these matters.

- 5.8 It was recognised that it was important that the whole organisation was committed to the principles within the new Protocol and not just Overview and Scrutiny. An independently facilitated workshop of Cabinet and Overview and Scrutiny Members and senior officers was therefore planned to begin the process to agree general principles and a vision. It was not possible to go ahead with this though due to the Covid-19 pandemic. Our external facilitator, Ann Reeder, instead conducted individual interviews with a number of Cabinet and Overview and Scrutiny Members and senior officers to obtain their views so these could be taken on board. The feedback from these has been incorporated into the new Protocol.
- 5.9 The clear message of both the feedback and the new guidance was the importance of developing a culture that supports scrutiny, which is fundamental for it to be effective. This is the focus of the new Protocol rather than proposing any significant structural change. As recommended in the MHCLG guidance, it aims to do this by;
- Recognising explicitly scrutiny's legal and democratic legitimacy;
  - Identifying a clear role and focus;
  - Ensuring early and regular engagement between the Cabinet and OSC;
  - Managing disagreement;
  - Ensuring that scrutiny receives impartial advice from officers and is provided with the necessary support;
  - Communicating scrutiny's role and purpose to the wider authority and the public; and
  - Ensuring scrutiny Members are supported in having an independent mindset.
- 5.10 The new Protocol:
- Highlights that the ultimate purpose of scrutiny should be to deliver outcomes that make a difference to the lives of residents through improving public services;
  - Specifies the need for scrutiny to be sufficiently robust but constructive, focused on matters of timely relevance and conducted in a courteous and professional manner. It also states that its principal aim should be to improve decision making and outcomes for residents;
  - Refers explicitly to the role of scrutiny in articulating the concerns of residents and the local community. This should not be merely a passive role, waiting for individuals and organisations to make contact and raise matters. A proactive role is proposed, with scrutiny actively and strategically seeking to involve individuals and groups that are best placed to inform specific pieces of work;
  - Emphasises the independence of scrutiny as well as the need for it to make recommendations that are based on the available evidence rather than any pre-conceived ideas;
  - Specifies expectations regarding Cabinet involvement, including regular dialogue as well as attendance at meetings for Cabinet Member Questions. In addition, the Committee and Panels are encouraged to provide advance notice of questions so that Cabinet Members and senior officers may better prepare for their participation in meetings;
  - Develops further work planning arrangements. A range of stakeholders are already involved in this, including representatives of the local community,

senior officers, Cabinet Members and partners. Detailed work plans are normally also prepared for each scrutiny body for at least a year ahead. The new Protocol includes an additional process to assist Cabinet Members and senior officers in better understanding the purpose of activity and to justify requests for information or reports;

- Differentiates between the various activities undertaken by scrutiny, including regular scheduled meetings and in-depth reviews. It also specifies that scrutiny should be a flexible process which uses a range of means of obtaining evidence and information and not just formal meetings;
- Highlights the importance of scrutiny receiving relevant information in a timely manner as well as being able to access support so that Members can understand it fully. It nevertheless states that there should be a clear purpose to requests for information and that consideration should be given to the resource implications of these. It goes on to say that scrutiny should not just rely purely on those who are directly responsible for services for information and should seek to supplement the evidence at its disposal from other sources, including service users, other residents and partners;
- Clarifies the status of evidence sessions undertaken as part of in-depth scrutiny reviews as this is currently unclear. It is proposed that the presumption will normally now be that meetings take place in public. It is nevertheless accepted that there may be some exceptional occasions where it may be appropriate to meet in closed session because of the nature of the business. Evidence gathering activities may therefore take place outside of formal meetings if necessary or appropriate;
- Explicitly recognises the responsibility that all Senior Officers have to provide impartial advice to scrutiny bodies as and when required. In addition, it refers to the specific roles of the Statutory Scrutiny Officer and the Monitoring Officer in ensuring that timely, relevant and high quality advice is provided.

5.11 There are limits relating to the workload capacity of scrutiny so it is essential that scrutiny uses its time and resources where they are most likely to be effective and deliver outcomes. The Protocol therefore highlights the importance of effective and ongoing dialogue between scrutiny, Cabinet and senior officers to ensure effective prioritisation and use of resources.

5.12 As previously mentioned, it is important that all parts of the organisation endorse the new Protocol so that it constitutes a shared understanding and agreement on how scrutiny should operate within the Council. It is therefore recommended that Cabinet also be asked to endorse the new Protocol before it is recommended to Council for final approval. In the meantime, relevant sections of the Constitution will be updated to ensure that they are consistent with the new Protocol.

5.13 An outstanding issue is the remit for the standing scrutiny panels. They have not been significantly reviewed since 2015, so it would be timely to revisit these in relation to the new Borough Plan and Cabinet portfolios. In order not to disrupt the work planning process for the forthcoming year, it is recommended that any changes arising from the review of remits be recommended for implementation in 2022/23.

## **6. Contribution to strategic outcomes**

6.1 The work of Overview and Scrutiny covers all areas within the Borough Plan.

## **7. Statutory Officers comments**

### **Finance and Procurement**

7.1 There are no direct financial implications arising from the recommendations in this report

### **Legal**

7.2 The legal issues arising from this are dealt with in the body of the report.

## **8. Use of Appendices**

Appendix A – Overview and Scrutiny Committee (OSC) Protocol 2021

## **9. Local Government (Access to Information) Act 1985**

N/A