



## Council Overview Board

### 1 March 2017

### Task Group Report: Scrutiny in a new environment

**Purpose of the report:** Policy Development and Review

This report provides an overview of the work undertaken by the Task Group to date.

#### Introduction

1. At its 6 July 2016 meeting the Council Overview Board considered the current scrutiny set up at the council and its ability to effectively scrutinise new and emerging local government strategies and structures. As a result of discussions at the Board it was decided that a task group should be set up to further investigate the issues around scrutiny in a changing environment.
2. A scoping document outlined the task group's aim to discern whether the Council Overview Board, under current arrangements, is able to effectively scrutinise emerging partnerships, new models of delivery and other developments and whether the existing governance arrangements need to be revised.
3. The Board appointed a group consisting of Zully Grant-Duff (Chairman), Stephen Cooksey, David Harmer and Nick Harrison. The group met three times between November and December 2016.
4. The group reviewed the current provisions for scrutiny under the Council's constitution testing these using their experience as scrutineers on various Scrutiny Boards. The group also gathered evidence from the Chairman of the Council Overview Board and the Director of Legal & Cultural Services at a witness session to complement desktop research on the 'new environment'.
5. Other Local Authorities were reviewed for structural changes to their scrutiny function to facilitate scrutiny of new strategies, however, none were noted. The group do recognise that many Local Authorities now have investment strategies and commercial property investment companies and in time this will provide an evidence base to inform this council's scrutiny procedures. Similarly, learning from scrutiny at councils which are predominately commissioners of services will also inform our future methods. These issues should be the next focus for a Council Overview Board task group in the new Council year.

#### Current Arrangements and Challenges

6. The Members of the group outlined the areas in which they perceived some doubt about the arrangements for scrutiny and made a number of information

requests which resulted in a guide to the governance and scrutiny of many of the key bodies under the Council Overview Board's remit being produced. This guide is included as Annex 2 to this report.

7. Rules on the access to information for Members is clear and is outlined in Part 2. Articles 2, 3 & 4<sup>1</sup> and the Member – Officer Protocol of the Surrey County Council Constitution. Scrutiny Board Members are entitled to request any information they require in the context of programmed piece of overview and scrutiny work. The board was advised that to have a right of access to confidential papers all scrutiny reviews should be conducted in the context of a forward plan with clear demonstrable outcomes.
8. Access to Part 2 confidential papers is at the discretion of the Authority and is not mandatory. However, as a matter of course Part 2 confidential papers are made available to all members on request.
9. Members will be aware that all Council services fall under the different remits of the five internal Scrutiny Boards and can be scrutinised by the relevant Board.
10. The Task Group learned in regard to LATCs that currently Scrutiny Boards are entitled to receive relevant information in line with the rights outlined in the Freedom of Information Act 2000 and in practice this means the companies' end of year annual reports.
11. The group queried aspects of the Local Authorities (Companies) Order 1995<sup>2</sup> with the Director of Legal, Cultural & Democratic Services. The group were advised that the various LATCs owned by the Council do fall into the definition of regulated company. In the context of the Council Overview Board a Member's duties are in connection with the roles assigned to the Board in the Council's Constitution.
12. The Council Overview Board has the function of reviewing the performance and holding to account any trading companies established by the Council. Information required should therefore relate to performance, for example the achievement of Key Performance Indicators (KPIs) agreed with the Council, and financial performance. The Council Overview Board, along with other Scrutiny Boards can scrutinise the Shareholder Board in respect of the performance of companies where the Council is the majority shareholder. A line of demarcation may need to be decided with regards to specific LATCs that provide services that fall under the remits of other Scrutiny Boards, for example Surrey Choices and

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<sup>1</sup> Surrey County Council Constitution, Part 2 Article 2, 3 & 4 and Member – Officer Protocol (available at: <https://mycouncil.surreycc.gov.uk/documents/s34519/Part%202%20-%20a07%20Scrutiny%20Boards.pdf>)

<sup>2</sup> The Local Authorities (Companies) Order 1995, Part II REGULATION OF CONTROLLED AND INFLUENCED COMPANIES, Article 7

Provision of information to members of local authority

7.—(1) Subject to paragraph (2), a regulated company shall provide to a member of a relevant authority such information about the affairs of the company as the member reasonably requires for the proper discharge of his duties.

(2) Nothing in this article shall require a company to provide information in breach of any enactment, or of an obligation owed to any person.

Available at: <http://www.legislation.gov.uk/ukSI/1995/849/made> (accessed 14/02/2017).

the Social Care Services. The proviso at 2) of the Regulation applies as do confidentiality requirements that may be imposed on Council Overview Board members in the appropriate circumstances.

13. The Task Group noted that individual scrutiny boards are responsible for scrutiny of services delivered under commissioning arrangements and may call LATC Directors to give evidence in relation to service delivery.
14. The Task Group concluded that the arrangements for scrutiny of Council contracted services by LATCs needed to be joined-up to ensure that service delivery and Council strategy are reviewed as one. Furthermore, the ability to request information and witnesses should apply in the same way to wholly owned Council subsidiaries such as Surrey Choices as it does to in-house services.
15. The Investment Strategy is strongly supported by Members of the Council Overview Board. The Investment Advisory Board (IAB), as a vehicle that facilitates the strategy and based on an analysis of its minutes and reports appears to provide robust analysis of opportunities and facilitate sound decision making. The Task Group was satisfied that further Member involvement at this early stage of investment would not be required and could in fact be problematic given the commercial environment.
16. The Chairman of COB's evidence and the Task Group's review of the IAB's terms of reference did, however, identify gaps. The group were unclear what constituted a significant change to the strategy and would therefore necessitate a Cabinet decision to approve a change in approach. For example, recent evidence from the Cabinet Member for Business Services & Resident Experience at Council Overview Board on 23 November 2016 suggested that there were aspirations to grow the Council's investment portfolio to circa. £2bn. The Group considered this kind of aspiration to require Cabinet approval but the Terms of Reference and the Investment Strategy are not explicit on this matter.

## Principles for Future Scrutiny

17. The Constitution already provides a great deal of scope for scrutiny. The methods employed by Members as outlined in the diagram below remain effective. These should be emphasised at induction meetings following next year's election.

<p><b>Holding the Cabinet to account</b></p> <ul style="list-style-type: none"> <li>• Call-in powers</li> <li>• Monitoring the performance of the Cabinet Member</li> <li>• Questioning reasons for decisions</li> </ul>	<p><b>Pre-decision scrutiny</b></p> <ul style="list-style-type: none"> <li>• <b>Asking key questions</b> What's on the Cabinet Forward plan? Has the right evidence been gathered? Have the right people been consulted? Are the reasons for decisions robust?</li> <li>• <b>Horizon scanning</b> – what's coming up in terms of policy development, national issues or central government legislation and how should we respond?</li> </ul>
<p><b>Performance monitoring</b></p> <ul style="list-style-type: none"> <li>• Have the decisions made been implemented? How effectively? On time? Did they have the desired impact?</li> <li>• Service Performance</li> <li>• What's the outcome of service delivery for our residents?</li> </ul>	<p><b>Policy development</b></p> <ul style="list-style-type: none"> <li>• Working with services to drive improvement</li> <li>• Ensuring value for money</li> <li>• Innovative approaches to developing policy with service: being involved at an early stage.</li> </ul>

18. In particular, the group emphasised the importance of pre-decision scrutiny of business cases and on implementation the need for Scrutiny Boards to set up proprietary tracking systems to review service activity against the stated aims of strategies. Thorough review of the regularly published Cabinet Forward Plan and regular liaison meetings between Chairmen, Cabinet Members and Senior Officers are essential to ensure effective and constructive participation of Scrutiny Boards.

19. In the future, coordinated, long-term scrutiny will be increasingly needed as the example of Surrey Choices has demonstrated with the Council Overview Board, Social Care Services Board and the Audit & Governance Committee having all raised concerns about its operation in 2016. What enquiries Scrutiny Boards need to undertake and with whom need to be carefully planned. Echoing the increasing relevance of pre-decision scrutiny, Boards need to conduct timely enquiries i.e. to ask the right questions at the right time, and consider long term overview work as part of their work programmes.

## Next steps

- Task Group to meet with the Leader and Chief Executive in late February to test their findings
- Task Group to finalise recommendations for discussion at Council Overview Board on 1 March

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**Sources/background papers:**

*Constitution of Surrey County Council*

*Annex 1 – Scrutiny Task Group Scoping Document*

*Annex 2 – Scrutiny Arrangements 2016*

*Annex 3 – Investment Advisory Board Terms of Reference*

*Annex 4 – Property Investment Flow Chart*

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