

Report to Council

Report of Director of Finance

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## Overview and Scrutiny Annual Report, 2018-19

### Executive Summary:

This report outlines the work undertaken by overview and scrutiny (O&S) during the past municipal year, its future work programme as thus far developed and, in the context of improving O&S further, considers the recently issued statutory guidance on O&S.

Decisions taken during the past municipal year under the 'urgency' provisions and the use of 'call-in' are listed within the report, and detailed within Appendix 3. In 2018-19, five decisions were taken under the Constitution's urgency provisions, while there were no call-ins.

This report was also considered by the Overview and Scrutiny Committee (OSC) at its meeting on 9 July 2018. The OSC commended the report to Council.

### Recommendations to Council

- (1) That this report be commended as the annual report of the Overview and Scrutiny Committee for 2018-19.
- (2) That the current rules relating to call in or urgency provisions remain unchanged.
- (3) That the policies, practice, and approaches identified within the statutory guidance on O&S, attached as Appendix 2 to this report, be noted.

### Reasons for Recommendation:

Article 8.2(d) of the Council's Constitution requires the Council's Overview and Scrutiny Committee to report annually to Full Council on the work undertaken during the year, its future work programme, and amended working methods if appropriate.

Overview and Scrutiny Procedure Rule 16(i), requires the operation of the provisions relating to call-in and urgency to be monitored annually and a report submitted to Full Council with proposals for review if necessary.

Statutory guidance on O&S has been published in May 2019 to ensure that local authorities carry out their O&S functions effectively.

## 1 Purpose of Report

- 1.1 This report has been prepared in accordance with Article 8.2(d) of the Constitution, which requires the Council's Overview and Scrutiny Committee to report annually to Full Council on the work undertaken during the year, its future work programme, and amended working methods if appropriate.

- 1.2 Overview and Scrutiny Procedure Rule 16(i) requires that the provisions relating to 'call-in' and 'urgency' are monitored annually and reported to Full Council with proposals for review if necessary.<sup>1</sup>
- 1.3 In addition, the report considers whether fresh measures to improve O&S at Guildford can be identified within the recently published statutory guidance on O&S.

## **2. The Council's Strategic Framework**

- 2.1 The O&S function strengthens the position of the Council to ensure that we are able to deliver our strategic priorities. For example, O&S assists the Council in improving value for money and efficiency and helps to ensure we are open and accountable to our residents.

## **3. Work of the OSC in 2018-19**

- 3.1 In accordance with Overview and Scrutiny Procedure Rule 7, the chairmen and vice-chairmen of the OSC and the Executive Advisory Boards (EABs) held joint work programme meetings in 2018-19. These meetings were held on four occasions to exchange, discuss, and agree work programmes for submission and approval to the OSC and EABs respectively.
- 3.2 In addition, the O&S work programme is prepared and progressed through frequent meetings between the O&S Chairman, Vice-Chairman, and Scrutiny Manager.
- 3.3 Lead Councillor question sessions continued as a regular item at OSC in 2018-19, with five members of the Executive attending such individual sessions, including the Leader of the Council. These sessions give an opportunity for non-Executive Councillors (and members of the public<sup>2</sup>) to question a member of the Executive about decisions and performance. Questioning can focus on targets and performance over time; particular decisions, initiatives, or projects; or on a section of a Lead Councillor's portfolio. Issues reviewed in this manner during 2018-19 include fire safety within the Council's housing properties and the Council's Budget gap.
- 3.4 The formal issues and topics considered by the OSC in 2018-19 include:
- Safer Guildford Partnership Annual Report 2018
  - Local Government Association's Corporate Peer Challenge - Action Plan
  - Guildford's Air Quality Strategy
  - Modal Shift: Encouraging Sustainable Travel
  - Houses in Multiple Occupation (HMO) Update
  - Operation of the leisure management contract, 2017-18
  - Watercourse and Grill Clearance
  - Potential Impact of Brexit
  - Annual report and monitoring arrangements for the operation of the G-Live contract, 2017-18
  - Future Guildford
  - Emergency Planning in Guildford Borough

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<sup>1</sup> Urgency provisions refers to the circumstances set out in the Access to Information Procedure Rules 15 (General Exception) and 16 (Special Urgency) and Overview and Scrutiny Procedure Rule 16(h) Call-in. [Guildford Constitution, Part 4, Procedure Rules.](#)

<sup>2</sup> The OSC may facilitate the asking of questions submitted in advance by members of the public. Council Constitution, Part 2 (Article 8), section 8.2(b)iii.

- Embedding Health and Wellbeing in Council Decision-making
- Guildford Community Lottery

- 3.5 Two additional issues were progressed in 2018-19 through an in-depth, task and finish group approach: On-street Parking and Food Poverty. Both reviews commenced in 2017. The report of the On-street Parking group was adopted by the OSC in June 2018 and its findings and recommendations considered by Guildford Joint Committee in September 2018.
- 3.6 The report of the Food Poverty task group was completed in March 2019 but, due to pre-election restrictions, was not able to be considered (and adopted) by the OSC until 4 June 2019. Its findings and recommendations will be discussed by full Council on 23 July 2019, prior to the Executive responding as the decision-maker in August 2019.
- 3.7 Another task group review, on Older People's Services, was started in late 2018 but ceased following the May 2019 elections because it no longer had any members. To inform its decision about whether or not to re-establish the review in 2019-20, O&S has requested information on the timeframe for developing recommendations about the service for a decision by the Executive.
- 3.8 Since 2016, the OSC has scrutinised the Council's G-Live and Leisure Partnership Agreement contracts monitoring through a working group reporting back to the Committee.

#### **4. Future Work Programme**

- 4.1 Attached at Appendix 1 is the overview and scrutiny work programme for 2019-20 as developed thus far.
- 4.2 To assist in developing the future work programme, all Councillors were invited to an externally facilitated session on 17 June 2019 to help consider and start prioritising potential work programme items.
- 4.3 A programme of Lead Councillor question sessions will be scheduled for 2019-20.
- 4.4 Working groups drawn from non-Executive Councillors will be established to scrutinise the Council's Leisure Partnership Agreement and G-Live contracts monitoring. This group will report back to the OSC in November 2019 and January 2020 respectively.

#### **5. Improving Overview and Scrutiny**

- 5.1 The continuing development of O&S at the Council is discussed below in the context of the Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities issued in May 2019.
- 5.2 The statutory O&S guidance includes a number of policies and practices authorities should adopt or should consider adopting when deciding how to carry out their overview and scrutiny functions. The Council 'must have regard' to the guidance but is not required to follow it in every detail.

- 5.3 Although it is statutory guidance, it is non-prescriptive and distinctly light-touch. It maintains that individual local authorities are best placed to decide how scrutiny<sup>3</sup> should work within their own political structures. As such, individual local authorities are invited to determine whether to implement the policies and practices featured in the guidance.
- 5.4 The guidance identifies effective scrutiny using six themes: culture, resourcing, selection of committee members, powers to access information, planning of work programmes, and evidence sessions.
- 5.5 The key content of the six themes is summarised below in sections 5.6 - 5.25 and the full report is attached at Appendix 2. Limited comment is offered.

## **Culture**

- 5.6 The guidance notes that the organisational culture within a local authority is a key determinant of the success or failure of O&S, and emphasises the importance of Councillors in setting an environment for effective scrutiny.
- 5.7 The guidance lists a range of suggested measures to help establish a strong organisational culture supportive of the role of scrutiny:

### **a) Recognising scrutiny's legal and democratic legitimacy**

The guidance notes the need for all Councillors and officers to understand the importance and legitimacy of scrutiny, particularly its role as a check and balance on the executive.

### **b) Identifying a clear role and focus**

The guidance advocates scrutiny having a clearly defined role within the organisation.

### **c) Ensuring early and regular engagement between the executive and scrutiny**

The guidance suggests there should be early and regular discussions between scrutiny and the executive, especially about the future work programme of the executive.

### **d) Managing disagreement**

The guidance suggests that it is the job of the executive and scrutiny to work together to reduce the risk of the executive disagreeing with the findings or recommendations of the OSC. To achieve this, the development of a protocol is suggested to manage instances when the executive disagrees with the OSC.

### **e) Providing the necessary support**

The guidance notes that local authorities should consider the purpose of O&S when allocating resources to scrutiny.

### **f) Ensuring impartial advice from officers**

The guidance confirms the need for all officers to be able to give impartial advice to OSCs to help ensure effective scrutiny.

### **g) Communicating scrutiny's role and purpose to the wider authority**

The guidance notes that scrutiny can lack support and recognition due to a lack of awareness within a local authority about its role.

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<sup>3</sup> The guidance uses the term 'scrutiny' to refer to both overview and scrutiny and the same terminology is used within this report.

## **h) Maintaining the interest of full Council in the work of Scrutiny**

The guidance notes the importance of the wider membership of the Council being kept informed of the work of scrutiny. The suggested mechanism for this is through submitting OSC reports and recommendations to full Council rather than solely to the Executive.

## **i) Communicating scrutiny's role to the public**

The guidance recommends scrutiny have a profile in the wider community and suggests engaging the Council's communications officers to help with this.

## **j) Ensuring scrutiny members are supported in having an independent mind-set**

The guidance notes the potential difficulties for O&S Councillors in having to scrutinise colleagues and their need for an independent mind-set.

- 5.8. Many elements above have already been addressed by the Council. For example, the power for the OSC to refer its reports and recommendations to full Council was introduced in 2018.
- 5.9. Moreover, given the role of O&S to provide challenge and act as a check and balance on the executive, Councillors may feel uneasy with the suggestion that the executive disagreeing with findings and recommendations from scrutiny is a risk to be minimised. At Guildford Borough Council, O&S minimises misunderstandings around its findings and recommendations by ensuring they are evidence-based and explained clearly, and provide a framework for debate.

## **Resourcing**

- 5.10. The guidance suggests the resource allocated to scrutiny is fundamental in determining how effective the function is, before noting it is a matter for each local authority to decide.
- 5.11. Currently, the Council has a dedicated scrutiny officer post and a separate scrutiny budget for external advice and expertise.

## **Selecting Committee Members**

- 5.12. The guidance notes how important the councillors serving on OSCs are to the effective functioning of scrutiny. The guidance identifies the need to consider experience, expertise, interests, ability to act impartially, ability to work as part of a group, and capacity to serve when selecting Councillors to serve on OSCs.
- 5.13. The guidance notes the importance and influence the role of Chairman has in the success of scrutiny. A suggestion is made for taking a vote by secret ballot as a method for selecting a scrutiny Chairman, but it is made clear that each local authority can choose the best method for their circumstances.
- 5.14. The guidance recommends that an induction and ongoing training are provided for scrutiny Councillors to enable them to carry out their roles effectively.
- 5.15. The Council offers induction training and ongoing skills training to Councillors, usually facilitated by John Cade from the Institute of Local Government Studies (INLOGOV), University of Birmingham. All this training has been extremely well received by councillors and additional sessions on aspects of overview and scrutiny are envisaged during 2019-20. In addition, Councillors are able to attend external O&S

training courses (for example, with the Centre for Public Scrutiny and the Local Government Association).

### **Power to Access Information**

- 5.16 The guidance notes the legal powers of an OSC to access information in order to do its job effectively. The guidance suggests a number of considerations for scrutiny when seeking information from external organisations, including the need to explain the purpose of scrutiny, the benefits of an informal approach, how to encourage compliance with the request, and who to approach.

### **Planning Work**

- 5.17 The guidance notes the importance of focusing on items that can make a tangible difference and having a long term plan, but one flexible enough to accommodate urgent, short term issues that arise.
- 5.18 The guidance suggests a variety of sources can inform the O&S work programme. A formal consultation with the public is suggested as likely to be ineffective, and less successful than individual Councillors having conversations with groups and individuals in their own local areas.
- 5.19 The guidance also recommends approaches to shortlisting topics should ensure that the items chosen are ones in which scrutiny can add value.
- 5.20 At Guildford Borough Council, the O&S work programme is considered regularly and agreed formally by the OSC. Topics are shortlisted with reference to a P.A.P.E.R. selection tool (attached as Appendix 4).
- 5.21 The OSC may wish to consider who else should be consulted in developing its work programme and how this could be accomplished.
- 5.22 The guidance suggest a number of ways to scrutinise topics, including as a single item on an agenda, a single item meeting, short or long-term task and finish groups, and a standing panel.
- 5.23 In the past year at Guildford, the majority of topics for O&S have been scrutinised as individual items on an agenda, a larger topic (Modal Shift) has involved a dedicated meeting, and more complex issues have been addressed through task groups or a standing working group.

### **Evidence Sessions**

- 5.24 The guidance notes that evidence sessions are a key way for OSCs to inform their work and that they require effective planning. As far as possible there should be a consensus among scrutiny members about the objective of an evidence session.
- 5.25 Prior to each OSC meeting at Guildford Borough Council, a pre-meeting is held for discussing each agenda item and for question-planning. Given the importance of effective planning, the OSC might consider whether the current system of pre-meetings immediately before the meeting allows this to be accomplished or whether other mechanisms should be considered.

- 5.26 The guidance notes that recommendations from O&S should be evidence-based and SMART (specific, measurable, achievable, relevant, and time-bound). Such an approach has long been adopted by scrutiny at the Council.

## **6. Call-In Procedure and Urgency Provisions**

- 6.1 The provisions relating to 'call-in' and 'urgency' are monitored on an annual basis and recommendations for changes are submitted to the Council for consideration if necessary.

### **Call-in Procedure**

- 6.2 Call-in is the power of Overview and Scrutiny to scrutinise a decision by the Leader/ Executive or an individual Lead Councillor before it is implemented. The call-in provisions also apply to a key decision made by an officer with delegated authority from the Leader/Executive.
- 6.3 The provisions relating to call-in are specified in the Overview and Scrutiny Procedure Rules contained in the Council's Constitution. The call-in mechanism enables non-Executive councillors to intervene when they feel that a decision being made by the Leader/Executive should be revisited or changed. The effect of call-in is to prevent implementation of a decision until the OSC has examined the decision. The OSC has the power to refer a decision back to the decision-maker or to refer a matter for further review by the Council.
- 6.4 The call-in procedure has not been exercised at the Council since November 2012 (that is to say, not since the call-in in relation to the future provision of classical music in the Borough).
- 6.5 The call-in procedure was revised by the Council in October 2014 as part of a review of the Council's Constitution. In 2014, the call-in threshold was increased from three councillors to five, while retaining the call-in power of the OSC chairman and increasing the call-in period from 96 hours to 5 working days.
- 6.6 There are no changes proposed to the call-in procedure at this time.

### **Urgency Provisions**

- 6.7 The 'urgency' provisions are specified in the Access to Information Procedure Rules and Overview and Scrutiny Procedure Rules. A principal purpose of these provisions is to enable the Leader/Executive or individual Lead Councillor, with the consent of the chairman of the OSC, to agree to preclude the call-in of any particular executive decision in cases of urgency. In addition, these provisions enable key decisions to be taken with less than 28 days' notice: either with at least 5 clear days' notification or less notice with the agreement of the OSC Chairman.
- 6.8 During 2018-19, the urgency provisions were used on five occasions:
- Surrey Leaders' Group – Nominations for appointment to outside bodies 2018-19. Executive decision, 22 May 2018.
  - Acquisition of leasehold interest in property. Decision taken by Leader, October 2018.

- Submission of Garden Village Bid for Wisley Airfield. Executive decision, October 2018.
- Slyfield Area Regeneration Project. Executive decision, March 2019.
- Acquisition of the Leasehold of an Industrial Unit. Executive decision, April 2019.

6.9 Further details of the five occasions during 2018-19 are attached at Appendix 3. This compares to three occasions in the 2017-18 municipal year.<sup>4</sup>

6.10 There are no changes proposed to the urgency provisions.

## **7. Legal Implications**

7.1 This report on the operation of overview and scrutiny has been prepared in accordance with the requirements of the Council's Constitution. In particular, the Council's Overview and Scrutiny Procedure Rule 16(i) requires the operation of the provisions relating to call-in and urgency to be monitored annually and a report submitted to Full Council with proposals for review if necessary. Article 8.2(d) of the Constitution requires the Overview and Scrutiny Committee to report annually to Full Council on the work undertaken during the year, its future work programme, and amended working methods if appropriate.

7.2 Statutory guidance on O&S was published by the Ministry of Housing, Communities and Local Government in May 2019 under section 9Q of the Local Government Act 2000 and Schedule 5A paragraph 2(9) to the Local Democracy, Economic Development and Construction Act 2009. The Council must 'have regard' to the guidance when exercising and reviewing its O&S function. This means that it is not necessary to follow every detail of the guidance, but it should be followed unless there is good reason not to do so.

## **8. Financial Implications**

8.1 There are no financial implications arising directly from this report.

## **9. Human Resources Implications**

9.1 There are no human resources implications arising from this report.

## **10. Equality and Diversity Implications**

10.1 The Council has a statutory duty under section 149 of the Equality Act 2010 which provides that a public authority must, in exercise of its functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

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<sup>4</sup> Surrey Leaders' Group – nominations for appointment to outside bodies, 2017-18. Executive decision, 23 May 2017. Guildford Bus Interchange: Stage 3 Report and Stakeholder Engagement Progress. Executive decision, 27 June 2017. Proposed Surrey Business Rates Retention Pilot. Executive decision, 24 October 2017.



10.2 This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report.

## **11. Conclusion**

11.1 Having considered the statutory guidance on scrutiny, together with current and previously considered approaches to scrutiny at the Council, officers recommend no change to O&S at this time. On 9 July 2019, the OSC was invited to consider the O&S guidance attached at Appendix 2 to this report, and the summary above, and confirm this view.

Officers are not recommending any changes to call-in or urgency procedures at this juncture.

## **12. Background Papers**

None.

## **13. Appendices**

Appendix 1: OSC work programme 2018-19, June 2019.

Appendix 2: Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities, May 2019.

Appendix 3: Key decisions taken by Executive in 2018-19 under urgency provisions / call-in waived.

Appendix 4: P.A.P.E.R. selection tool.