London Borough of Merton

Report and recommendations arising from the scrutiny task group review of the scrutiny function in Merton

**Overview and Scrutiny Commission
January 2010**

Task group membership
(drawn from the Overview and Scrutiny Commission):

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Acknowledgements

We are indebted to Professor Steve Leach for sharing his expertise with us. We would also like to thank all the councillors, officers and partner organisations that took the time to speak to Professor Leach, enabling him to take a rounded view of our achievements and shortcomings.

Foreword by the Task Group Review Chair

Scrutiny was introduced just ten years ago in the Local Government Act 2000. Not surprisingly it has taken time to evolve into an effective mechanism for policy development, and to adapt to new requirements in subsequent legislation, such as the Police and Justice Act 2006 which made every authority responsible for scrutinising its crime and disorder functions.

Merton undertook a major review of its scrutiny arrangements in 2005/6, which I chaired. That set the pattern for the development of scrutiny in the current council, aided by a bigger and better resourced scrutiny team. While much has been achieved, there is still room for improvement.

The stimulus to undertake a further "light touch" review now was twofold. The 2006 – 2010 council comes to an end in May, making it an appropriate moment to take stock and learn from the past four years and to consider changes and improvements to ensure scrutiny is fit for purpose in the next 2010 – 2014 council. Our ambitions for scrutiny are likely to be tempered by a tight financial climate however, irrespective of the political outcome of the forthcoming elections. So we must also try to ensure scrutiny remains fully effective with reduced resources. This is possible, but it will require flexibility on the part of members as well as the scrutiny team.

For an independent assessment of the state of health of scrutiny in Merton we turned again to Professor Steve Leach, who played such an important advisory role in the major 2005/6 review. His in depth knowledge of Merton combined with his work for a wide range of other local authorities puts him in a unique position to benchmark our progress and make well grounded recommendations for improvement. We are indebted to him for his hard work and practical advice.

But the prize for hard work must surely go to Julia Regan, our Scrutiny Manager, who took on organising the sometimes disparate musings of the task group into a clear and coherent report. I would like to record my gratitude to Julia for her patient endeavour on our behalf.

Cllr Peter Southgate
Chair, Overview & Scrutiny Commission

Executive Summary

The task group was set up in order to assess the progress made in improving scrutiny during the 2006-10 council administration and to identify any further issues to be addressed to ensure the function is fit for purpose for 2010 onwards.

In carrying out this scrutiny review, task group members have drawn on their own experience of scrutiny as well talking to officers and taken into account the independent evaluation carried out by Professor Steve Leach during October and November 2009.

Professor Leach's evaluation is based on documentary analysis, observation of meetings, individual interviews and focus groups with councillors, partners and officers who play a significant role in overview and scrutiny. In commenting on Merton's performance he has been able to draw on extensive knowledge of scrutiny practice in a wide range of other authorities.

The task group has taken Professor Leach's findings and recommendations into account in drawing up its own recommendations aimed at continuing to improve the performance of the Council's scrutiny function..

The report highlights the strengths of the scrutiny function at Merton, considered by Professor Leach to be among the best in the country. Weaker areas are discussed and many of the report's recommendations are aimed at addressing these - including improved agenda management, a more strategic approach to selecting topics for scrutiny, a streamlined process for budget scrutiny and clearer communication with the Council's Cabinet.

The report seeks a confirmation from Council of its commitment to continue supporting overview and scrutiny to perform its function effectively, independently of the executive, and with parity of esteem. It also seeks a commitment to continue the arrangements by which chair and vice chair positions are shared between the political parties.

The report notes the proposed reduction in scrutiny officer support and recommends that the Overview and Scrutiny Commission should monitor the impact of this. It also recommends that the present structure of an Overview and Scrutiny Commission plus four Panels should be retained unless resource constraints force the Council into considering a change.

List of task group's recommendations

Recommendations	Responsible decision making body
Recommendation 1 (paragraph 30) We recommend that scrutiny Chair and Vice Chair positions continue to be shared proportionately, in a way that is appropriate to the political balance of the Council.	Council
Recommendation 2 (paragraph 33) We recommend that in receiving this report, Council again confirms its commitment to those recommendations and to the principle of sharing chairing as set out in Part 4E section 9a of the Constitution.	Council
Recommendation 3 (paragraph 44) We recommend that the Commission and Panels each take responsibility for agenda "health checks" by using some or all of these mechanisms: • adopting a work programme layout that groups agenda items by meeting date so that agenda length is clearly shown and the health check is therefore built in from the outset • discussion between the Chair, Vice Chair and scrutiny officer at the end of each meeting to identify learning points • use of the matters arising item at the start of each meeting to review the previous meeting agenda • formal review at the end of the municipal year as part of the work programme item on the agenda	Commission
Recommendation 4 (paragraph 45) We recommend that in drawing up the work programme, the Commission and Panels are selective in their approach to the use of pre-decision scrutiny. It should not become a routine process whereby all Cabinet key decisions are automatically chanelled through to the relevant scrutiny body. In accepting an item for pre-decision scrutiny, consideration should be given to the amount of time and information available for scrutiny.	Commission (Cabinet to note)
Recommendation 5 (paragraph 46) We recommend that the work programme report, drawn up by the scrutiny officer, should include a prompt for the Commission/Panel to consider whether any of the agenda items would be appropriate for the use of an informal preparatory session (or other format) to develop lines of questioning.	Commission

Recommendation 6 (paragraph 56) We recommend that the Scrutiny Manager should investigate how topic workshops work in other authorities and draw up proposals for trial in Merton. These proposals will be discussed by the Commission at its meeting on 17 March 2010.	Commission
Recommendation 7 (paragraph 57) We recommend that the relevant Cabinet Member(s) should be invited to attend any such workshops.	Commission (Cabinet to note)
Recommendation 8 (paragraph 59) We recommend that as soon as a task group topic has been agreed by the Commission/Panel, the scrutiny officer should write to all councillors inviting them to join the task group. This will be done in time to give such councillors an opportunity to attend the first meeting of the task group.	Commission
Recommendation 9 (paragraph 68) We recommend that in the 2010/11 municipal year the budget scrutiny process should be revised so that the first stage is carried out at the Commission only. It is expected that Panel Chairs will consult with all Panel members in advance of the meeting in order to seek their comments and concerns. The second stage will be carried out at each Panel and subsequently by the Commission (as in previous years). This approach will be evaluated by the Commission with a view to sustaining continuous improvement in future years.	Commission (Cabinet to note)
Recommendation 10 (paragraph 69) We recommend that the Commission continue to review the format and content of budget information as well as officer support provided to the Panels/Commission in order to identify effective ways in which scrutiny can add value to the budget setting process. This work should include benchmarking with other authorities.	Commission
Recommendation 11 (paragraph 74) We recommend that the Commission and Scrutiny Panels should invite Cabinet Members for specific agenda items from time to time and not as a matter of course. Such invitations should make the purpose of attendance clear and set out what will be expected of the Cabinet Member at the meeting, including start time and planned length of time allocated for discussion of the agenda item. Cabinet Members should be encouraged to attend relevant scrutiny panels for the whole meeting should they wish to do so.	Commission (Cabinet to note)
Recommendation 12 (paragraph 76)	Commission (Cabinet to

We recommend that the Scrutiny Commission and Panel Chairs and Vice Chairs meet with the relevant Cabinet Member(s) and Director(s) at key points during the municipal year in order to discuss matters of mutual concern and to share work programme intentions and priorities.	note)
Recommendation 13 (paragraph 85) We recommend that the Scrutiny Manager bring a progress report on scrutiny induction and training proposals to the Commission's meeting on 17 March 2010.	Commission
Recommendation 14 (paragraph 87) We recommend that the Commission continue to use the Annual Members Survey and other feedback from councillors in order to identify training and development needs so that appropriate training activities and events can be provided.	Commission
Recommendation 15 (paragraph 96) We recommend that the present structure of an Overview and Scrutiny Commission and four Panels be retained unless resource issues force the Council into considering a change.	Council
Recommendation 16 (paragraph 97) We recommend that the Commission should monitor the impact of the reduction in scrutiny officer support in 2010/11.	Commission
Recommendation 17 (paragraph 112) We recommend that the different roles of the scrutiny officer and the democratic services officer are made clear in the Scrutiny Handbook and at the first meetings at the start of each municipal year in order to help councillors to understand that although two officers attend meetings they are carrying out quite different roles.	Commission

Report of the Scrutiny Review Task Group

Introduction

Purpose
1.   The Overview & Scrutiny Commission agreed, at its meeting on 11 June 2009, that it would be timely to assess the progress made in improving scrutiny during the current (2006-10) council and to identify any further issues to be addressed to ensure the function is fit for purpose for the next (2010-14) council.

2.   The Commission set up a small member working group to carry out a short piece of work on this, to report back to the Commission on 28 January 2010.

3.   The task group's terms of reference were:

  • to evaluate the progress made in the scrutiny improvement work programme against the ambitions set out in the 2006 Review of Scrutiny
  • to carry out a 'health check' on the scrutiny function at Merton (structures, processes, behaviours, outcomes)
  • to identify any further improvement work to ensure the function is fit for purpose and is able to take a proactive stance rather than simply reacting to legislative and other requirements
  • to set ambitions and vision for scrutiny for the next council (2010 to 2014)

What the task group did
4.   In carrying out this scrutiny review, the task group has:

  • received a presentation from Kate Martyn, Head of Policy, Partnerships and Communities, setting out the policy and financial context for the review
  • commissioned an independent evaluation from Professor Steve Leach, De Montfort University (attached in Appendix i)
  • taken into account recent legislation, best practice guidance and good practice in other authorities.

5.   Professor Leach's evaluation is based on documentary analysis, observation of meetings, individual interviews and focus groups with councillors, partners and officers who play a significant role in overview and scrutiny. In commenting on Merton's performance he has been able to draw on extensive knowledge of scrutiny practice in a wide range of other authorities.

6.   The task group has taken Professor Leach's findings and recommendations into account in drawing up its own recommendations

aimed at continuing to improve the performance of the Council's scrutiny function.

Background

The role of overview and scrutiny

7. Scrutiny was introduced by the Local Government Act 2000, as part of the modernisation of local government. Councils were required to implement a new, more streamlined structure for decision-making. In Merton, as at most local authorities, this resulted in the creation of a Cabinet comprising executive councillors responsible for taking the day-to-day decisions on running the Authority within the budget and policy framework agreed by the full Council.

8. Non-executive councillors were given the new role of scrutiny, which was designed to act as a check and balance, holding the Cabinet to account and contributing to policy development. Scrutiny has four main roles:

    - holding the Cabinet to account
    - policy development and review
    - external scrutiny, including health scrutiny, investigating issues affecting the wider community
    - performance review and monitoring to ensure continuous improvement

9. Scrutiny also provides new opportunities for community involvement and democratic accountability. Engagement with service users and with the general public can help to improve the quality, legitimacy and long-term viability of recommendations made by scrutiny committees.

10. The Centre for Public Scrutiny's Good Scrutiny Guide defines four principles of effective public scrutiny. These propose that good scrutiny:

    - provides "critical friend" challenge to executive policy-makers and decision-makers
    - enables the voice and concerns of the public and its communities to be heard
    - is carried out by "independent minded governors" who lead and own the scrutiny process
    - drives improvement in public services

11. In addition, good practice is generally recognised to involve scrutiny being Member-led, consensual and non-party political, evidence based and relatively informal.

Previous reviews of scrutiny in Merton

12.   A previous Overview and Scrutiny Commission task group carried out a wide ranging review of scrutiny procedures in 2005/06. The review assessed the Council's overview and scrutiny structure and processes, identifying strengths and weaknesses and made 37 recommendations for improvement. External challenge was provided through assessment and recommendations from Professor Steve Leach of De Montfort University.

13.   The task group's report was accepted by Council on 5 April 2006. An action plan was drafted and progress against targets was monitored regularly by the Council's Corporate Management Team and the Overview and Scrutiny Commission.

14.   In 2007 the Audit Commission commended the overview and scrutiny function in Merton's Corporate Performance Assessment, highlighting:
   - that overview and scrutiny processes had been streamlined to give greater focus to the Council's priorities; and
   - that improvements had already been secured further to the 2005/06 review.

15.   The 2005/06 Review of Scrutiny built in a commitment to evaluate its impact. This was carried out in 2007, with an independent assessment of progress provided by Professor Leach. Recommendations were made for further improvements, including on the conduct of meetings and suggestions for Member development and training.

16.   The scrutiny function has continued to evolve in response to these and to external stimuli (such as the 2007 Local Government and Public Involvement in Health Act). The scrutiny team has continued to produce and monitor an annual scrutiny improvement plan. The purpose of this task group review is to draw all these strands together and make proposals to take us forward.

National and local policy context

Legislation

17.   There have been a number of pieces of legislation since the role of
      scrutiny was introduced by the Local Government Act 2000. The first of
      these was the Health and Social Care Act 2001, giving local authorities
      the power to "review and scrutinise matters relating to the health
      service in the local authority's area, and to make reports and
      recommendations on such matters". It also placed a duty on NHS
      bodies to consult the Health Scrutiny Committee on any substantial
      variations of service provision.

18.   Subsequently three further Acts have formally extended and
      strengthened scrutiny powers in relation both to the Council's Executive
      (or Cabinet) and external organisations:

      - the Police and Justice Act 2006 requires every Council to have a
        scrutiny committee with the power to review or scrutinise
        decisions made, or other action taken by the Council and the
        other responsible authorities, in the exercise of their crime and
        disorder functions. In Merton this function is the responsibility of
        the Overview and Scrutiny Commission.
      - the Local Government and Public Involvement in Health Act
        2007 introduced the power to scrutinise the Council's Local Area
        Agreement partners in relation to local improvement targets.
      - the 2007 Act also created a duty on both Cabinet and Council to
        respond to reports and recommendations made by scrutiny
        committees within two months of written notice being given.
        (note – this is already in the Council's Constitution, Part 4E
        section 12c)
      - the Local Democracy Economic Development and Construction
        Act 2009 includes a requirement for all local authorities to
        appoint one of its officers as a scrutiny officer and prescribes a
        number of functions the officer must carry out. The Act also
        allows two or more authorities to appoint joint overview and
        scrutiny committees, the nature and scope of which is no longer
        limited to issues relating to LAA targets.

Merton's transformation programme

19.   The Council is carrying out a programme of work between now and
      2014 aimed at transforming the organisation to make it leaner, more
      efficient and more responsive.

20.   The transformation programme will proceed in the context of the
      council's finances and the statutory duty to balance the Council's
      budget. The Medium Term Financial Strategy shows a substantial
      funding gap of £14.527m in 2010/11 and a further £11.974m in

2011/12. The focus of transformation work over the next few years will therefore be on efficiency and closing this financial gap.

21.   The transformation programme will have implications for the scrutiny function in terms of the content of the work programme. Undoubtedly it will also have implications for the staff and scrutiny research budget. These issues are discussed in later sections of the report.

Scrutiny in Merton – an assessment

22.   We have found that the scrutiny function in Merton is accepted, understood and embedded in the organisation. The Council's Constitution sets out the role, status and expectations of scrutiny. Sharing the chairing among the political parties, accepted as good practice, is clearly prescribed in the Constitution so that *"the appointment of Chairs and Vice Chairs will comply with the rules of proportionality and in each case the Chair and Vice Chair for each body will not be from the same political party".(Part 4E – section 9A)*

23.   Merton councillors' perception of the overall effectiveness of overview and scrutiny (as measured by the annual survey) has increased each year since 2006. Councillor satisfaction with the three core elements of the scrutiny function (pre-decision scrutiny, budget scrutiny and performance monitoring) has also increased each year.

24.   The annual survey has found that policy reviews remain the most highly rated aspect of scrutiny work. Comments made about the task group reviews indicate that councillors view them as a productive way of holding officers and external organisations to account, identifying areas for improvement and making practical recommendations.

25.   The Council's external scrutiny protocol is regarded as forward thinking in anticipating an extension of scrutiny beyond the parameters of the 2007 Act. The protocol can be used for work with any external partner. The protocol is featured in a number of national publications and has resulted in invitations to speak at several local government and scrutiny seminars.

26.   The way in which the Commission dealt with Merton's first councillor call for action (CCfA) has been commended by the Centre for Public Scrutiny and included as a case study in its recent publication showcasing early examples of CCfA in action.

27.   Professor Leach's 2009 evaluation has concluded that the scrutiny function has continued to improve and is now among the best in the country:

"The improvements introduced in 2006 have in most cases been sustained or enhanced. The strengths of the function outweigh its remaining weaknesses, and its performance compares favourably with the majority of other authorities for which I have recently carried out reviews or researched." (Leach 2009 report, paragraph 2.1)

28.   Professor Leach highlighted the way in which positions of responsibility were shared between the political parties as having been an appropriate response to the political situation in which Merton found itself after the May 2006 election. This involved:
- equal share of Panel chairs between the two major parties

- vice chairs from different parties
- an independent councillor chairing the Commission

29. This approach is enshrined in the Council's constitution, as set out in paragraph 22 above. We hope that this spirit of sharing continues in good faith after the May 2010 election. It would be a regressive step to return to having chairs and vice chairs from the ruling group.

30. We recommend that scrutiny Chair and Vice Chair positions continue to be shared proportionately, in a way that is appropriate to the political balance of the Council. (recommendation 1)

31. Other key strengths of the scrutiny function in Merton, identified by Professor Leach are:

- fairly good relationship between scrutiny and the Cabinet
- healthy level of call-ins since the 2006 clarification of the process
- recognition of the value of work done by scrutiny task groups

32. As recently as February 2009, Council re-confirmed its commitment to the role of scrutiny as set out in the 2005/6 Review of Scrutiny, emphasising its endorsement of the first three recommendations:

> 1. Recognise that the role of overview and scrutiny is to hold the executive to account… and is committed to supporting overview and scrutiny to perform this role effectively.
>
> 2. Recognise the contribution of an effective overview and scrutiny function to the corporate health of the organisation and the need for overview and scrutiny to be independent from the executive.
>
> 3. Agree that the status of the executive and the overview and scrutiny function should have a parity of esteem across the organisation.

33. We recommend that in receiving this report, Council again confirms its commitment to those recommendations and to the principle of sharing chairing as set out in Part 4E section 9a of the Constitution. (recommendation 2)

Improving overview and scrutiny in Merton

34.   Although scrutiny in Merton is curently functioning well, we are aware that there is scope for improvement. In particular, we welcome the suggestions and recommendations that Professor Leach has made. In many instances we have adopted these within our recommendations, in some cases taking them further by addressing how these should be taken forward.

35.   We have discussed with Professor Leach those aspects that he has identified where improvements could be made to strengthen scrutiny still further:

        •   agenda management
        •   choice of task group review topics
        •   budget scrutiny
        •   relationship with Cabinet
        •   public involvement

36.   Each of these is discussed in turn in subsequent sections of this report.

Agenda management

37. The work programme is a key tool for successful scrutiny. At the start of the municipal year, the Commission and each Panel develop their own well-planned and manageable work programme, with carefully selected topics, which link to the Council's corporate priorities and contribute to service improvement.

38. In developing the work programme, scrutiny bodies should aim to:

    - prioritise issues for in-depth work where scrutiny can make an impact, add value and contribute to policy development
    - reduce the need for information and update reports
    - achieve a balance between pre-decision scrutiny, policy development, performance and budget monitoring
    - contribute at an early stage in the decision making process
    - increase public and other stakeholder involvement in scrutiny
    - leave space in the work programme in order to be able to respond to urgent issues of public or councillor concern as they arise during the year.

39. The agenda for each meeting should be a manageable size – not too long, i.e. just one or two items if these were to be examined in depth or up to ten items for brief discussion.

40. Ideally discussion of items would be evidence based, during which the Commission/Panel would hear from a range of witnesses with differing perspectives and views so that the Commission/Panel could reach rounded conclusions and make recommendations based on evidence received.

41. Professor Leach, in observing scrutiny meetings during October/November 2009 and by examining recent agenda papers, has identified the content and management of Panel and Commission agendas as an area in which improvements could be made. He found that although there are some short agendas with important issues prioritised, others remain over-long with little sense of prioritisation. Many of the reports on agendas are too long. He also found a tendency to include items that are for information only. Some of these information items are now circulated by email by the scrutiny team rather than included as agenda items – we accept that there is scope to expand this approach.

42. Professor Leach believes that Merton is now at risk of undertaking too much pre-decision scrutiny. We have discussed this with him and accept that we could be more selective in choosing items for pre-decision scrutiny only where scrutiny has a genuine concern, real interest and an opportunity to add to the decision making process.

43. As the principles of good agenda management are already accepted in Merton, Professor Leach has suggested that improvements could be achieved through agenda "health checks" and the use of informal

preparatory meetings or other formats to move scrutiny meetings still further away from that of the traditional committee model. He has also suggested that training and development activities should highlight the importance and benefits of good agenda management.

44. **We therefore recommend that the Commission and Panels each take responsibility for agenda "health checks" by using some or all of these mechanisms:**

- **adopting a work programme layout that groups agenda items by meeting date so that agenda length is clearly shown and the health check is therefore built in from the outset**

- **discussion between the Chair, Vice Chair and scrutiny officer at the end of each meeting to identify learning points**

- **use of the matters arising item at the start of each meeting to review the previous meeting agenda**

- **formal review at the end of the municipal year as part of the work programme item on the agenda**

(recommendation 3)

45. **We recommend that in drawing up the work programme, the Commission and Panels are selective in their approach to the use of pre-decision scrutiny. It should not become a routine process whereby all Cabinet key decisions are automatically chanelled through to the relevant scrutiny body. The decision to accept an item for pre-decision scrutiny is ultimately at the Chair's discretion. In accepting an item, consideration should be given to the amount of time and information available for scrutiny. (recommendation 4)**

46. **We recommend that the work programme report, drawn up by the scrutiny officer, should include a prompt for the Commission/Panel to consider whether any of the agenda items would be appropriate for the use of an informal preparatory session (or other format) to develop lines of questioning. (recommendation 5)**

47. Our recommendations on induction and training address the need for reinforcing the principles of good agenda management (see paragraph 80 onwards).

Choosing task group review topics

48.   Currently, at the first meeting of the municipal year the Commission and each Panel are presented with a "long list" comprising suggestions that have been received from a wide range of sources including councillors, council officers, NHS and police managers, local voluntary and community organisations and members of the public. These suggestions are sought by the Scrutiny Team via My Merton, Merton Together, letters to voluntary and community organisations, flyers in the libraries and in Merton Link, as well as the on-line suggestion form on the Council's website.

49.   The "long list" includes:

- service areas which are under-performing
- issues which are important to service users or the general public
- policy issues which may be challenging for the Council
- issues on which the scrutiny body has requested a follow-up report.

50.   In order to help the Commission or Panel discuss and agree work programme priorities, the appropriate Cabinet Members and Directors make a presentation to the meeting, setting out their strategic priorities and challenges for the coming year.

51.   We acknowledge that there are limits to the time and support available for scrutiny work and so it is particularly important that we are able to prioritise issues to ensure that we carry out effective scrutiny of the most important issues.

52.   The work programme will usually include a one or more topics identified as being suitable for in-depth scrutiny by a task group.

53.   We aim to select work programme items according to criteria set out by the 2005/06 Review of Scrutiny, as described in paragraph 38 of this report.

54.   In his report, Professor Leach has expressed concern that we have not been sufficiently rigorous in applying the selection criteria to the identification of topics for task group work. We accept the need to be more imaginative in our selection of topics and agree with Professor Leach's recommendation that we explore a different way of choosing task group topics.

55.   Professor Leach has recommended that:

"The selection of topics for in-depth scrutiny should in future be carried out as follows. Early in the municipal year a workshop session should be organised, to which all interested members of the scrutiny commission and panels are invited. The meeting should be structured in such a way that cabinet members, officers and (where feasible)

external organisations are invited to present and justify proposals for in-depth studies and to be prepared to answer questions from scrutiny panel members. The scrutiny members present should then be divided into three or four small groups to compare the various proposals, using the council's criteria for selection, to identify a limited number of preferred topics (with justifications)."

56.   We would like to give further thought to how this might work in practice. **We therefore recommend that the Scrutiny Manager should investigate how topic workshops work in other authorities and draw up proposals for trial in Merton. These proposals will be discussed by the Commission at its meeting on 17 March 2010**. **(recommendation 6)**

57.   **We further recommend that the relevant Cabinet Member(s) should be invited to attend any such workshops. (recommendation 7)**

58.   Further to consideration of topics, we also believe that we should be more demanding of councillors in terms of their involvement in task group work. Again this is something that can be addressed during the induction of new councillors. We would also like to draw on the expertise of a wider group of councillors by extending the opportunity to serve on a task group to any councillor who is not on the Cabinet.

59.   **We therefore recommend that as soon as a task group topic has been agreed by the Commission/Panel, the scrutiny officer should write to all councillors inviting them to join the task group. This will be done in time to give such councillors an opportunity to attend the first meeting of the task group. (recommendation 8)**

Budget scrutiny

60. Merton has developed a two stage approach to budget scrutiny:

     - at the first round of budget meetings (in October/November) Panels focus on whether strategic priorities have been addressed in the business plan and, in turn, whether the budget will ensure that these priorities are achievable. The meetings enable the Panels and the Commission to signal concerns about proposed savings at an early stage, while there is still time for reconsideration. The meetings also offer an opportunity to challenge Cabinet Members and officers about how and why they have formulated these priorities.

     - the second round of budget meetings (in January) provides an opportunity to focus on the detail of the budget proposed for the coming year. It is accepted that the budget and business plan may change up until the date that they are sent to cabinet and it is expected that scrutiny members will be kept informed of these.

61. It is generally accepted that getting budget scrutiny right is one of the more difficult aspects of scrutiny and many authorities have struggled with this. Many, including Merton, have adopted an evolutionary process, evaluating and making incremental changes to the approach over the years. To a large extent this approach has been successful in Merton, evidenced by a year on year increase in councillors' satisfaction with budget scrutiny recorded by the Annual Members Survey.

62. Changes were made to the process and timetable in 2008/9 in order to create a closer relationship between performance and budget scrutiny throughout the year. In particular, scrutiny panels received financial and performance monitoring information relating to their remit at each panel meeting.

63. Further changes were made this year (2009/10) in response to the Commission's concerns that the timescale for budget scrutiny was such that the point at which the Scrutiny Panels and the Commission made final comments was relatively early in the process and so some of the comments were rendered "out of date" in relation to the final set of papers considered by Cabinet.

64. The Commission agreed a revised approach for 2009/10 to ensure that scrutiny members can have a timely impact on the budget setting process. This involved changing the meeting dates for the Commission and Scrutiny Panels so that they occur much closer to the Cabinet meeting on the 22 February 2010. This should enable the Commission and the Panels to receive the same final draft budget proposals as the Cabinet.

65. The Commission also recommended that changes be made to the content and layout of this year's budget papers. These changes, based on discussion between the Chair, Vice Chair, Director of Corporate Services and the Head of Finance include a summary sheet and additional figures showing gross and net calculations as well as more detailed breakdown of expenditure within departments. The effectiveness of the 2009/10 changes will be evaluated by the Commission at the end of the municipal year.

66. Professor Leach observed two of the first round of budget meetings this year. His conclusions were that:
    - Panels are spending a disproportionate amount of time on budget scrutiny in relation to the total number of Panel meetings and the outcomes achieved. The outcome of the first round in particular is a limited list of relatively marginal changes.

    - information is presented in a way that is difficult for councillors to assimilate and therefore makes it difficult to identify alternative savings options.

    - we should recognise that budget is typically seen as an intrinsically political process and scope for objective appraisal of the Cabinet's draft budget, detached from party political considerations, is unrealistic.

67. Professor Leach suggested that the two stage process be retained but that the first stage be carried out solely by the Commission rather than by each Panel as at present. He also suggested that each Panel should be allocated a budget support officer from the finance service to aid them with understanding the content of the budget at the second stage meeting and the scope of possible alternative options.

68. **We recommend that in the 2010/11 municipal year the budget scrutiny process should be revised so that the first stage is carried out at the Commission only. It is expected that Panel Chairs will consult with all Panel members in advance of the meeting in order to seek their comments and concerns. The second stage will be carried out at each Panel and subsequently by the Commission (as in previous years). This approach will be evaluated by the Commission with a view to sustaining continuous improvement in future years. (recommendation 9)**

69. **We recommend that the Commission continue to review the format and content of budget information as well as officer support provided to the Panels/Commission in order to identify effective ways in which scrutiny can add value to the budget setting process. This work should include benchmarking with other authorities. (recommendation 10)**

Relationship with the Cabinet

70. The Council's Overview and Scrutiny Handbook sets out the role of Cabinet Members in relation to scrutiny. The expectation is that scrutiny has parity of esteem and that Cabinet Members should develop good working relationship with the Commission/Panels and be responsive to scrutiny recommendations. These are underlined by legislation requiring Cabinet Members to attend scrutiny meetings when invited and to respond to recommendations within a set timescale.

71. In recent years Cabinet has responded to scrutiny reports within the specified timescale and accepted a significant proportion of recommendations made by scrutiny task groups.

72. Professor Leach interviewed six of the Cabinet Members as part of his 2009 evaluation. A number of issues emerged during these discussions which have enabled Professor Leach to identify ways in which the links between scrutiny and the Cabinet could be strengthened.

73. Clear communication is needed so that the Cabinet Member knows why s/he has been invited to a scrutiny meeting and what is expected of him/her at that meeting. We agree that this would be helpful. We would also like to re-iterate the 2005/06 scrutiny review recommendation that Cabinet Members should not be routinely invited to all scrutiny Panel/Commission meetings but invited from time to time for specific agenda items.

74. **We recommend that the Commission and Scrutiny Panels should invite Cabinet Members for specific agenda items as and when they are required and not as a matter of course. Such invitations should make the purpose of attendance clear and set out what will be expected of the Cabinet Member at the meeting (including an indication of start time and planned length of time allocated for discussion of the agenda item). Cabinet Members should be encouraged to attend relevant scrutiny panels for the whole meeting should they wish to do so. (recommendation 11)**

75. Professor Leach has also suggested that scrutiny chairs should meet with Cabinet members at various stages during the year in order to compare work programme intentions and priorities. This would help with communication and with work programming.

76. **We recommend that the Scrutiny Commission and Panel Chairs and Vice Chairs meet with the relevant Cabinet Member(s) and Director(s) at key points during the municipal year in order to discuss matters of mutual interest and to share work programme intentions and priorities. (recommendation 12)**

Public involvement

77.   The involvement of service users and with the general public can help to improve the quality, legitimacy and long-term viability of scrutiny work. Service users and the public bring different perspectives, experiences and solutions to scrutiny, particularly if "seldom heard" groups are included.

78.   Considerable efforts have been made to do this. In 2008/09 more than 900 people were involved in scrutiny work in Merton through attending meetings, sending in written evidence, taking part in discussions with task group members or completing task group questionnaires.

79.   We are committed to continuing to strengthen public involvement in a meaningful and rewarding way. We agree with Professor Leach's assertion that the most appropriate way to involve the public is through task group work and we will continue to target our efforts accordingly.

Induction and training

80.   The local council elections in May 2010 are likely to result in a considerable number of new councillors taking part in scrutiny. It is important that these councillors are, from the outset, aware of the nature of scrutiny, the contribution it can make to service improvement and the quality of life of residents, and the skills necessary to make it work effectively.

81.   The induction programme for new councillors is also an opportunity to reinforce messages with existing councillors.

82.   A draft programme of induction events has been drawn up by the Member Services Manager. The Scrutiny Manager has been consulted and has arranged for two scrutiny-specific sessions to be included in the induction programme:

    •   an introduction to scrutiny
    •   a practical session on questioning techniques.

83.   In addition staff from the scrutiny team will be available to talk to councillors at the two Saturday open days in May 2010 and will make themselves available for one-to-one follow up meetings as required.

84.   Service specific induction will also be arranged as part of the general induction programme. In addition, the scrutiny team will be able to arrange for members of the Commission and Panels to visit services that are included within the Commission/Panel remit to enable a deeper understanding prior to scrutinising particular issues.

85.   **We recommend that the Scrutiny Manager bring a progress report on scrutiny induction and training proposals to the Commission's meeting on 17 March 2010. (recommendation 13)**

86.   We believe that it is helpful to regard training and development as an ongoing four year programme for councillors rather than as taking place solely during the initial induction period. Our expectation is that councillors will attend whenever possible.

87.   **We recommend that the Commission continue to use the Annual Members Survey and other feedback from councillors in order to identify training and development needs so that appropriate training activities and events can be provided. (recommendation 14)**

Structure

88.   Professor Leach has advised that as part of the Council's transformation programme, options for more streamlined structures for overview and scrutiny should be considered.

89.   We have given careful thought to whether it would be helpful to make recommendations relating to the number of scrutiny bodies and their remit at this point in time. We have concluded that it would be more appropriate to leave these considerations until after the May 2010 council elections. Decisions taken then will be able to take into account the political make-up of the Council and the level of officer support available to scrutiny.

90.   In this section of the report we have therefore set out the range of available options so that they can form a starting point for future discussion and decisions.

91.   While we would not wish the level of officer resources to drive our decision making on the appropriate structure, it is nevertheless something that we must take into account. In particular we note the proposal in the 2010/11 budget papers to delete one FTE scrutiny officer post.

92.   Reduced support can be accommodated through structural change, different patterns of officer support, increased activity of councillors (for example, by taking notes on task group visits) or some combination of these.

93.   Simplifying the structure to reduce the number of panels (and therefore the number of meetings) would enable us to retain the existing balance of officer support provided to the Commission/Panels and task group work.

94. Professor Leach has identified the Commission plus three Panels as one possible option. He has suggested that the corporate issues currently covered by the Corporate Capacity Panel could become part of the remit of the Commission given that there is already some overlap. He has suggested that the Commission retain responsibility for the scrutiny of crime and disorder issues, positing that there is not sufficient business to make a strong case for having a separate body for this at present.

95. Professor Leach has suggested that we also consider a more radical option of having the Commission with just one or two sub-committees (or panels). This would enable councillors to spend more time on in-depth scrutiny through task group work.

96. We recommend that the present structure of an Overview and Scrutiny Commission and four Panels be retained unless resource issues force the Council into considering a change. (recommendation 15)

97. We further recommend that the Commission should monitor the impact of the reduction of scrutiny officer support in 2010/11. (recommendation 16)

Officer support
98. Support for overview and scrutiny currently comes from two main sources: the Scrutiny Team in Chief Executive's and the Democratic Services Team in Corporate Services.

The role of the Scrutiny Team
99. The Scrutiny Team consists of one manager and three officers, who promote the scrutiny function across the Council and externally and provide policy and research support to the Commission, Panels and their associated task groups. The scrutiny team work with the chair and other scrutiny members to enable scrutiny to meet the CfPS principles of effective scrutiny, including being genuinely Member-led.

100. At Commission and Panel meetings the scrutiny officer's role is to support and advise the chair in order to help the meeting to run smoothly and to identify outcomes (such as recommendations and references to Cabinet, Council and other bodies including NHS Trust Boards).

101. The scrutiny officer assists Members in selecting topics for scrutiny and managing the scrutiny work programme for the Commission/Panels. Each year the Scrutiny Team undertakes a campaign to gather suggestions for possible scrutiny reviews from members of the public, LB Merton senior officers, partner agencies, local voluntary and community groups and Merton councillors.

102. Advice is given by the scrutiny officer to encourage short, strategically focussed agendas. Often there will be discussion with the chair prior to the meeting about the order and management of individual items on the agenda. For complex issues (such as the recent Commission meeting on Travellers in Mitcham) there may be pre-discussion of potential references or recommendations to cabinet or Council.

103. Attendance at the meeting enables the scrutiny officer to identify Members' development and training needs (e.g. on questioning, budget scrutiny, visits to individual services to deepen understanding of an issue). Again there will often be a post meeting discussion with the Chair to understand what went well and what could have been done differently. The scrutiny officer has responsibility for following up on action points from the meeting.

104. The scrutiny officer also project manages the work of scrutiny task groups and drafts the final report on behalf of the task group. Task group support includes seeking public engagement with the scrutiny process, arranging witnesses and visits, obtaining evidence documents and best external practice information and liaising with service officers to produce reports and information for scrutiny.

105. The scrutiny team is charged with promoting the scrutiny function within the Council and externally. The team is regularly approached by other councils and national organisations (such as the LGA and CfPS) requesting contribution to publications and conferences in order to share Merton's good practice on scrutiny.

The role of the Democratic Services Team
106. Democratic Services provide full administrative and constitutional support to the council's formally constituted bodies. This includes the construction and maintenance of clearly defined processes in keeping with legislative and constitutional provisions and with an emphasis on providing a robust platform for decision-making that is resistant to challenge.

107. An essential part of the democratic services role is the attendance at S.101 meetings (Local Government Act 1972 LGA 2000) in order support the Chairman in the smooth provision of committee business in accordance with the legal/constitutional provision. In addition. democratic services staff have the responsibility to make an independent record (minutes) of decisions made and this without prejudice to any particular party.

108. This principle necessarily includes the minuting of scrutiny meetings which, as with other committees of the Council, continue to benefit from the application of uniformly applied processes having regard to both local and statutory requirements.

109. Minutes are a part of the Council's statutory records, including documents that are tabled at meetings.

Responding to the perception of duplication

110. The attendance of a Scrutiny Officer and a Democratic Services Officer at Commission and Panel meetings has led to a perception among some members that there is a duplication of effort.

111. We heard from the officers concerned that it is their view that there is no actual duplication and that the two teams work well together. Professor Leach has stressed that the two roles are very different and has advised against combining them, emphasising that there would be nothing to be gained by doing so:

> *"One proposal which does not seem to me to be sensible is the idea of combining committee administration and scrutiny support roles in the same individuals – i.e. in effect merging the Scrutiny Team and a part of the Democratic Services Committee administration team. This proposal perhaps reflects a perception that at Panel and Commission meetings there are two officers whose main activity appears to be note-taking. In fact the roles of the two individuals is very different – the scrutiny support officer is there to help the chair manage the agenda in a way which results in desired outcomes, whilst the democratic services officer is there to provide legal advice and to provide a true and accurate record of the proceedings, consistent with the overall standard of minute taking throughout the authority. The two roles are distinct and there would be nothing to be gained in combining them. "*

112. We recommend that the different roles of the scrutiny officer and the democratic services officer are made clear in the Scrutiny Handbook and at the first meetings at the start of each municipal year in order to help councillors to understand that although two officers attend meetings they are carrying out quite different roles. (recommendation 17)

Savings and efficiencies 2010-2014

113. The 2010/11 budget papers include the proposal to delete one FTE scrutiny officer post as part of the contribution to savings within the Chief Executives Department, reducing the team's capacity by 25%.

114. Professor Leach has commented that decisions taken on the level of staffing and other support provided to the scrutiny function will depend in part on the political priority given to the function compared with other activities. He stressed that overview and scrutiny needs a critical mass of dedicated support at the centre and has advised that any reduction in capacity should be of a limited nature.

115. Our view is that in context of the wider financial situation facing the Council, it is appropriate for the scrutiny function to contribute to the savings. We recognise that reducing the scrutiny team's capacity by

25% will impact on its ability to support the scrutiny function and we will therefore need to give careful consideration to how to make best use of these resources.

116. If the existing Commission plus four Panels structure is retained, decisions need to be taken about the number of task groups that can be supported at any one time. If careful thought is given to start and finish dates, it may be possible to continue to have five task groups staggered throughout the year.

117. Professor Leach has suggested that we could make use of link officers in each directorate to provide support to the scrutiny team on agenda content and meeting report deadlines. We would need to ensure that directorates have the capacity to provide this support.

118. Other possibilities for re-thinking how policy and research support is provided to scrutiny may emerge through the longer term TOM (target operating model) work that is being carried out within the Chief Executives Department. This work includes investigating the feasibility of re-organising the work of existing scrutiny officers and policy officers so that they work on a project basis to provide support as required, including scrutiny, policy development and partnership work.

Concluding remarks

119. We were pleased and reassured to find that our scrutiny function has many strengths and is functioning well overall. We are proud of the improvements that have been made and of work that the Commission, Panels and task groups have carried out over the past four years.

120. We are very grateful to Professor Leach for helping us to identify how we can make scrutiny even more effective in Merton and we have targeted our recommendations at those areas.

121. The induction of new councillors after the May 2010 council elections provides us with an opportunity not just to train those councillors but also to re-instill the principles and practices of effective scrutiny more widely among councillors and the Council's officers. We have therefore asked for induction and training proposals to be brought to the Commission for consideration at its meeting on 17 March 2010.

What happens next?

122. This task group was established by the Council's Overview and Scrutiny Commission and so this report will be presented to its meeting on 28 January 2009 for the Commission's approval.

123. The Commission will then send the report to the Council's Cabinet on 15 March 2010 for initial discussion and to a meeting of Council on 24 March 2010.

124. Cabinet and Council will be asked to provide a formal response to the Commission on those recommendations requiring a response. The list of recommendations on pages 6-8 of this document shows which body (Commission, Cabinet or Council) is responsible for each recommendation.

125. The response to each of the task group's recommendations should set out whether the recommendation is accepted and how and when it will be implemented. If the Cabinet or Council is unable to support and implement some of the recommendations, then it is expected that clearly stated reasons will be provided for each.

126. A further report will be provided to the Commission by the Scrutiny Manager six months after the responses have been received, giving an update on progress with implementation of the recommendations.

Appendix 1

Report by Professor Steve Leach, De Montfort University

Overview and Scrutiny in LB Merton

Evaluation of Progress

Section 1: Introduction; Aim and Methodology of the Review

1.1 This report is a follow-up to two previous reports submitted to LB Merton. In December 2005, I carried out a review of the overview and scrutiny function in the London Borough of Merton, as part of a broader review of the function carried out by a task group, set up by the Overview and Scrutiny Commission, which reported in April 2006. In January 2007 I was asked to undertake an independent assessment of the impact of the changes introduced as a result of the changes introduced in April 2006. In August 2009 I accepted a commission to undertake an independent assessment of the effectiveness of the function and an analysis of further improvement needed. The report is a contribution to the work of a Member working group set up by the Overview and Scrutiny Commission in June 2009 charged with assessing the progress made in improving scrutiny since 2006, and identifying further issues to be addressed to ensure that the function is fit for purpose for 2010 onwards. The impact of the 2010 local election, the Council's transformation programme and the scarcity of resources resulting from the recession are all relevant contextual issues.

1.2 The broad terms of reference for the assessment were as follows:

❖ to evaluate the progress made in the scrutiny improvement work against the ambitions set out in the 2006 Review of Scrutiny

❖ to carry out a 'health check' on the scrutiny function at Merton (structures, processes, behaviours, outcomes)

❖ to identify any further improvement work to ensure the function is fit for purpose (in light of best practice, changes in legislation, and expectations of inspection regimes, e.g. CAA)

❖ to set ambitions and vision of scrutiny from 2010 to 2014

1.3 The methodology used in undertaking the commission was similar to that deployed in the previous pieces of work.

   ❖ analysis of relevant council documents including corporate plan, community strategy, agendas and minutes of panel and Commission meetings, annual reports, task group reports, members surveys, external evaluations etc

   ❖ interviews with key participants in the scrutiny process, either individually or in small discussion groups, and including council leader, Cabinet members, overview and scrutiny commission and panel chairs and vice chairs, panel members, chief executive, relevant directors and heads of service and relevant partner organisations

   ❖ observation of panel and commission meetings

   ❖ input of good practice from other authorities where I have carried out reviews or of which I have knowledge

1.4 The work involved was carried out in October and November 2009. I interviewed 17 members and 10 officers[*], either individually or in small groups (and in two or three cases by phone) and observed meetings of the Commission and the Sustainable Communities Panel in November. I am grateful for the co-operation received from all those who agreed to be interviewed, and the frank and open way in which they answered my questions and shared with me their experiences of overview and scrutiny. The help of Julia Regan, the Scrutiny Manager, in organising my programme of work is particularly appreciated.

1.5 The report is in two main sections. In the next section I set out my views of the effectiveness of the overview and scrutiny function in LB Merton, highlighting those areas where further improvement is needed. In the following section I suggest and seek to justify ways in which those improvements could be achieved. The recommendations involved are summarised at the end of the report.

Section 2 : Evaluation of Progress

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[*] Including one health and one police representative

2.1 In common with other recent assessments, I found that there was much to commend about the approach to overview and scrutiny in Merton. The Audit Commission's 2007 CPA report highlighted the improvements that have been made since 2005. A positive report was received from the Customer Service Excellence assessment in September 2009. The improvements introduced in 2006 have in most cases been sustained or enhanced. The strengths of the function outweigh its remaining weaknesses, and its performance compares favourably with the majority of other authorities for which I have recently carried out reviews, or have researched.

2.2 The way in which the positions of responsibility on the Commission and the four Panels have been allocated amongst the different party groups is widely accepted as having been the most appropriate response to the 'knife-edge' political situation[*] in which Merton found itself after the 2006 election. The benefits of having an independent chair of the Commission, and the fairness and 'balance' he has shown in carrying out this role are widely recognised. The benefits of sharing the chair and vice chairs of the Panels between the two major parties are also apparent. These arrangements have provided a springboard for the improvements apparent since 2006. They have facilitated a political climate in which party political differences have not constituted a barrier to the effectiveness of the function. Party political values and affiliations can never be totally 'defined out' of overview and scrutiny; nor should they be. However there are authorities where their dominance and the way they are expressed greatly diminishes the effectiveness of overview and scrutiny[*]. This is not the case in Merton, an outcome to which the approach to the sharing of chairs and the selection of independent chair of the Commission have made a major contribution. As the May 2010 election approaches, it is not surprising that party political differences in overview and scrutiny have begun to be noticed more. But it remains a manageable intrusion.

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[*] A situation which subsequently changed to one of a minority Conservative administration
[*] As discussed in my recent 2009 CfPS publication; 'Party Politics and Scrutiny in Local Government: Overcoming the Barriers'

2.3   Whatever the outcome of the 2010 local election, the effectiveness of the overview and scrutiny will be safeguarded if there is a similarly inclusive approach to the allocation of chairs and vice chairs, the details of which would need to reflect (not necessarily precisely) the political balance.

2.4   The responsiveness of the Cabinet to the overview and scrutiny is another major strength in Merton. In other authorities, the way in which the Cabinet responds to recommendations emanating from the scrutiny process is dilatory (sometimes to the extent of non-response) and/or brief (to the point of unhelpfulness). In Merton there is a good process whereby overview and scrutiny recommendations are guaranteed a reasonably full response, within a specified time period. In addition, the Cabinet has accepted a significant proportion of the recommendations directed at it, particularly those from task group reports. Although views in the Cabinet about the role of overview and scrutiny are mixed, this does not appear to impair its readiness to be responsive. There have been one or two confusions about the responsibility for taking forward recommendations, and there are other aspects of the executive/scrutiny relationship which need attention (see below), but in general, the responsiveness of the Cabinet is to be applauded.

2.5   The recognition of the value of task-and-finish groups has become further embedded in the Council's approach to overview and scrutiny, and many Members[*] continue to find their participation in such groups the most rewarding element in their overview and scrutiny activities. There have been some encouraging examples of a widening of scope in relation to the choice of topics. The selection of 'Fear of Crime' resulted from an awareness of the fact that this issue topped the list of residents' concerns in a recent public opinion survey. The decision to establish a 'Recession' task group is a good example of the selection of a topic which will provide a major challenge for the council over the next few years. The process for organising task group work – scoping, timetabling, identification of witnesses, distinctiveness of reports –

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[*] Although it should be noted that the readiness to participate in such groups is limited to around half of those eligible

demonstrates good practice. There are however issues about whether the current process for identifying and prioritising topics represents the most appropriate approach (see 2.14 below).

2.6 The first 'councillor call for action' has now taken place (November 13th 2009) and demonstrated the council's capacity to deal effectively with a new scrutiny device. Careful planning and briefing appears to have enabled overview and scrutiny to deal effectively with a controversial local issue, within a civilised atmosphere which facilitated productive debate. LB Merton is something of a pioneer in this respect (many authorities have not yet had a 'councillor call for action') a fact which has been recognised by the council's participation in a forthcoming Centre for Public Scrutiny good practice publication on 'councillor call for action' and an invitation to speak at an LGC conference on this issue in January 2010.

2.7 The post 2006 clarification of the call-in process has been welcomed, and is widely seen as an improvement on what went before. Some of the earlier batch of call-ins in 2006 were regarded by some majority-party members as 'politically-motivated' (which will inevitably be the case with some call-ins) but they were all dealt with in ways which resulted in satisfactory outcomes (although not necessarily outcomes which the initiators of the process were seeking). From 2007 onwards call-ins have been running at 3-4 per year, which I would regard as a healthy level. The call-in process used selectively and responsibly is an important democratic safeguard. Interestingly, one senior member of the Cabinet was positive about the way the call-in process had worked, arguing that quite apart from its democratic importance, it had on occasions caused the Cabinet to 'think again' about a decision.

2.8 All these aspects of overview and scrutiny can be seen as real strengths, which should be sustained or (ideally) enhanced in the future. There are other strengths; the work of the Scrutiny Team is widely-valued by Members, and plays an effective role, within the limits of its resources. There is a healthy (although uneven) readiness of the Panels (and the Commission) to challenge

both internal and external witnesses, in a way which only rarely goes beyond assertiveness to aggressiveness. The system of link officers in the various departments is beginning to work more effectively (although in this respect also, progress has been uneven). Similarly the allocation of individual responsibilities **within** scrutiny panels for topics such as performance monitoring and the budget is an imaginative initiative which is becoming more effective, as its 'job requirements' become better understood. There have been improvements in agenda management (although some problems remain - see 2.18ff below. In all these respects LB Merton continues to represent an example of an authority where overview and scrutiny can be seen as 'good practice' and as a model for other less progressive councils.

2.9 However even in authorities exhibiting 'good practice' there is invariably scope for further improvement and Merton is no exception. Following my interviews observations and documentary analysis (and applying my comparative knowledge of other authorities), there are four aspects of the way overview and scrutiny operates where I think a re-assessment of the way things are done is required. There are also two major issues associated with the impact of the recession on the availability of resources in the borough over the next 4-5 years. Finally there are a number of more minor issues where there is scope for improvement. These various issues are listed below.

Improvements needed in current practice

❧ The role of overview and scrutiny in the budget
❧ The basis for selecting in-depth 'task group' topics
❧ The content and management of panel and commission agendas
❧ The development of an appropriate skills and knowledge base for councillors involved in overview and scrutiny (particularly important in the immediate aftermath of the 2010 election)

New challenges in a time of financial scarcity

❧ The case for reviewing the structure of overview and scrutiny
❧ The need to reassess the pattern of support mechanisms

Other issues

- ❖ Strengthening Cabinet/overview and scrutiny liaising mechanisms
- ❖ Clarifying the role of Cabinet Members at overview and scrutiny meetings
- ❖ Widening the scope of task group membership
- ❖ Recognising the value of pre-meeting briefing and/or preparation sessions
- ❖ Finding new ways of strengthening public involvement

The role of overview and scrutiny in the budget

2.10   In my 2007 report (para 2.2), I evaluated positively 'the way in which the involvement of overview and scrutiny in the business plan/budget process has been organised', but went on to make the following comments (paras 3.11-3.13)

'However, the experience has not been a wholly positive one. The recommendations that were tabled were limited in scope and involved relatively marginal levels of expenditure. There was a view that an opportunity had been missed, and that there had been scope in the process for overview and scrutiny to recommend changes which were more central to the content of the budget. There was also a view that the commitment of time involved was not commensurate with the level of impact which had been achieved. My impression is one of a good, well-structured process, the opportunities within which have not yet been fully exploited…however there are grounds for confidence that the process will add more value and prove more satisfying to members in the next budgetary round'.

2.11   The optimism signalled in the final sentence has proved to be unfounded. There are various possible reasons for the lack of progress, which are listed below and then discussed.

- ❖ Lack of a substantive input from overview and scrutiny at the first stage (October/November) resulting in a significantly reduced capacity to evaluate the draft budget at the second stage (January/February) on a strategic basis.

- ❖ A recognition that the budget is typically seen as an intrinsically 'political' process, and that the scope for an objective appraisal of the Cabinet's draft budget, detached from party political considerations, is unrealistic.

- ❖ Presentation of budgetary information to panels (and the Commission) in a way which is difficult for members to assimilate and which (in particular) makes it difficult for members to identify options for savings which could be substituted for items in the draft budget which members wish to retain.

2.12 There is, in my view, some substance in each of these explanations. The result is that at present, the involvement of overview and scrutiny in the budget continues to take up a good deal of time, whilst producing at best a limited list of recommendations for relatively marginal changes. The Panel meeting I observed in November was almost wholly taken up with a consideration of an initial list of savings. As I understood it, there will be a similar focus at a meeting in February when a draft budget is published on a more comprehensive basis. This means that 2 meetings out of 6 – or a third of the total annual time available – will have been taken up by budget discussions which are likely, on the basis of previous experience, to result at best in a few marginal changes.

2.13 It is not that there is no influence. The Commission itself has raised some important issues of a more strategic nature (e.g. the need for what it saw as a relatively high level of balances), and all the panels (Healthier Communities and Older People in particular) have succeeded in persuading the Cabinet to make changes, which although limited in resource terms, were important to those who would have been affected by the proposed cuts. It is also important, as several councillors (including Cabinet Members) pointed out, that there is a (democratic) transparency about the budget-setting process, which is facilitated (in principle) by providing an opportunity for overview and scrutiny panels to challenge and suggest modifications to draft proposals. It is important that this opportunity exists. But it is doubtful whether the current way of organising the process is the best option. Alternatives are explored in Section 3. There are

also issues raised in the current process about the adequacy of the information and briefing received by panels in relation to the budget process, which are discussed further below (see 2.36).

Selection of 'task group' topics

2.14 Task groups involve a considerable investment of resources (including Members' and officers' time). It is important, in these circumstances, that topics for study are selected carefully. In particular it is most important that (inter alia) it can be demonstrated that there is real scope for 'added value' in carrying out such a project, i.e. that it is likely that the analysis and recommendations would have a high potential to influence either the Cabinet or partner agencies outside the authority.

2.15 There does exist in Merton a list of relevant criteria for the selection of task group topics, and it is clear that it is used, in particular by the Scrutiny Team, to focus discussions when panel and commission programmes are being discussed at an early stage in the municipal year. However it is clear that there is scope for improvement in the process. Whereas some task group reports have been seen as valuable and influential by Cabinet members and/or senior officers, in other cases such influence cannot be identified, or where it can, it has been relatively marginal.

2.16 One example of the kind of judgement that needs to be made is provided by the circumstances in which it was decided to carry out a task group study of 'Fear of Crime'. On some criteria the choice of this topic was a sensible one; it certainly reflected a priority concern of the general public. In the event the 'Fear of Crime' study proved a valuable learning experience for the councillors concerned and has helped strengthen the council's relationship with the local police, but did not in the event add a great deal to what was already known, (and several of its recommendations were already being implemented). The purpose of this discussion is not to criticise the choice made, but to illustrate the importance of the choice process, in the context of a limited resource (it is

generally felt that 4-6 task group reviews are the maximum feasible in any one year).

2.17 There was also evidence from the interviews that Cabinet Members sometimes developed ideas for in-depth scrutiny studies, which they felt would be of real value in helping the Cabinet develop a policy (and hence of value to the authority itself). However they found it difficult to find a way of seeking to influence overview and scrutiny lead Members to undertake studies of this nature, partly because of the (legitimate) desire of the latter to control their own agenda. This matter too needs attention. What is needed, in my view, is a different approach to developing the overview and scrutiny work programme at the start of each municipal year (see Section 3).

The content and management of scrutiny agendas

2.18 Just as the time Members have available to undertake in-depth reviews in a scarce and valuable resource, so is the time available to carry out the more formal business of overview and scrutiny, as undertaken at Commission and panel meetings. In 2005 it was apparent that best use was not made of this resource. There were too many 'items of information', a good deal of unstructured discussion and little attempt to structure agendas in a way which ensured that those items which merited most attention actually received it. In my 2007 report, I noted (para 4.6) that

'The lead role of the Scrutiny Team in managing the agendas of
commission and panel meetings has been strengthened and now
operates satisfactorily, although there remains a lack of
understanding on the part of some heads of service as to why
items they wish to see presented and discussed are not necessarily
appropriate.

2.19 In so far as I can judge, further progress has been made since 2007. The committee chairs I interviewed were aware of the importance of prioritising items. In two cases I was told how they sought to identify the two most important agenda items and then to ensure that the agendas were managed in a

way which prioritised them. That is a step in the right direction. However in other cases, despite the Scrutiny Team's best endeavours, agendas have remained overcrowded, with little sense of prioritisation. Although chairs (and vice chairs) now appear to be operating in a way which strengthens political ownership of agendas (which is in principle a good thing) there is still a tendency to include items because 'the Panel needs to know about them' irrespective of what value can be added. There may on occasion be a case to include items of this nature – but only by exception. There is also the opportunity – currently utilised to an extent – to circulate reports of this nature by e-mail, rather than include them as formal agenda items.

2.20 One reason for the continuation of agenda overcrowding in some (but not all) Panels has been the increasing tendency to carry out what is known as 'pre-decision scrutiny'. The process involves the consideration of a report by an overview and scrutiny panel before it goes to Cabinet, to enable the panel to influence the decision (or policy).

2.21 There are in principle advantages in pre-decision scrutiny. It is more likely Cabinet will be influenced by representations made by a panel **before** it takes a decision than if representations take place **after** a decision has been made, through the use of the call-in mechanism. But there are also dangers. As I argued in my 2007 report: (para 3.15)

  'It is important however that overview and scrutiny panels are
    selective in their approach, to pre-decision scrutiny. It should not
    become a routine process, whereby all Cabinet key decisions are
    automatically channelled through to the relevant panel….scrutiny
    panels should reserve the right to single out for pre-decision
    scrutiny those items about which they are genuinely concerned, or
    have a real interest.

2.22 The advice set out in the last sentence is not always being followed. If Panels are not selective in identifying items for pre-decision scrutiny, it is likely that their contributions to the Cabinet's deliberations will be limited and often

superficial. The process is only effective if Panels are able to devote time to a reasonably detailed analysis of the justification for the decision or policy. Otherwise the outcome is likely to be a disjointed set of comments which add little in the way of value, because they are not based on a thorough evaluation of the reasons for the proposed decision. There is a case for looking again at the way pre-decision scrutiny is handled in Merton.

2.23 Other aspects of agenda management also require attention. There are still too many long reports which are tabled, unaccompanied by a shorter interpretive commentary which would enable Members to do them justice. One of the reasons why Members find it difficult to find a productive way of discussing the budget and suggesting viable alternatives within it is the lack of helpful briefing papers of this nature. In some cases it would be appropriate for the Scrutiny Team to provide such briefings; in others it would be the department from which the report emanates.

2.24 Thus whilst agenda management has improved, there is (as in most authorities) scope for further improvement. With a new intake of councillors expected in 2010, it is a particularly appropriate time to seek to overcome some of the remaining problems.

The development of an appropriate skills and knowledge base

2.25 The influx of new councillors expected in 2010 raises again the importance of training and development in bringing new councillors 'up to speed' as regards overview and scrutiny. At the same time there are existing Members who would also benefit from such processes.

2.26 LB Merton has for some years had a commitment to councillor training and development. Many opportunities have been provided. The problem is that it is difficult to require councillors to undertake training if they don't think they need it. The patchy nature of the take-up of scrutiny training was illustrated by several interviewees. Several Cabinet Members expressed the view that the quality of chairing skills of scrutiny chairs varied (they of course preferred

taking part in meetings where they felt 'good' chairs operated). Some Members and officers drew attention to a similar variation in the capacity (and in some cases the commitment) of scrutiny panel members who do not hold chair or vice-chair positions. One officer felt that about half the members of the Panel he reported to had enough understanding of the subject and adequate questioning skills to be able to ask probing questions of officers and Cabinet Members whilst the other half lacked such attributes. Others referred to the fact that some Panels tended to be dominated by a small number of individuals, with the remainder typically contributing little. If (as is likely) there is some validity in these perceptions, then there are training and development implications for existing councillors, as well as newcomers, in relation to:

   i.   an understanding of the subject matter covered by a Panel

   ii.   the ability to apply the kind of skills necessary for effective scrutiny – e.g. analytical, questioning, synthesis

   iii.   the particular skills required for effective chairing of a scrutiny panel

The case for a structural review

2.27 In 2005 and 2007 there seemed little reason to move away from Merton's existing overview and scrutiny structure of a Commission and four Panels. This kind of structure was typical of that operated in many authorities, and there were more important issues to address than that of structure. Recommendations for structural change can be given undue prominence in such reviews, when the real problems have more to do with clarity of aims, processes and organisational culture. The 2005 report limited itself to recommending changes in the allocation of responsibilities between the Commission and the four Panels. These changes were implemented and seem to be working satisfactorily (certainly no-one argued that they weren't).

2.28 But circumstances in 2009 are different. The recession and the impact it would have on local authority finances could not have been foreseen in 2007. The reality of the recession and the resulting budgetary famine have brought such issues back on to the agenda. The transformation project is likely to raise the issue of whether Merton really needs one Commission and four Panels (with

their associated administrative costs) when other authorities seem to manage with less elaborate structures (as in Camden (pre 2006) and Harrow).

2.29 It is appropriate, therefore that this report should consider the case for alternative, more streamlined structures for overview and scrutiny, which it does in Section 3.

Patterns of Scrutiny support

2.30 The recession and the financial situation facing Merton raise a parallel issue about scrutiny support. All directorates are being asked to identify possible staff cuts, with an expectation that front line services should be given greater priority than support (or back office) services, into which latter category the Scrutiny Support Team falls. Again, the question is bound to be asked could the overview and scrutiny function be effectively supported with fewer staff – or in a different way. There are comparable authorities with larger dedicated scrutiny support units than Merton, but also those with smaller. Much depends on the political priority given to the function compared with other activities. In Section 3 the implications of this agenda are explored further.

Cabinet/Scrutiny Commission Liaison

2.31 In my 2007 report, I made the following recommendations (4.15)

'Annual meetings between the Cabinet and scrutiny commission, along with periodic meetings between the chairs and vice-chairs of each panel and their corresponding Cabinet member(s) should be arranged as a vehicle for exploring areas of common interest (as well as identifying differences'.

2.32 This kind of liaison machinery has not been established. There remain good reasons why it should. A degree of liaison does take place between Cabinet Members and scrutiny chairs, but this is more likely to occur when the two individuals concerned are members of the same party (which is the case in two of the four panels). Whilst this kind of dialogue should continue to be encouraged, the more important development is the establishment of the

Cabinet/Commission meetings. Any concerns that this initiative would compromise the commission's independence are unfounded. The Cabinet could not dictate or require; it could only suggest in depth studies they would welcome, or explain why they thought Commission proposals for such studies were not a good idea. It is clear that some Cabinet Members do have ideas of studies which they would find beneficial, and if the Commission were to agree, there is of course a strong probability of their submitting a report which would be influential.

Clarifying the role of Cabinet members at scrutiny meetings

2.33 There was some disquiet amongst certain Cabinet Members about their experience when requested to attend a scrutiny meeting. There were two concerns; first that they were sometimes kept waiting for an unacceptable length of time before their item came up; and secondly that they sometimes were not given prior notice of what the panel were required from them and hence felt inadequately briefed. Such concerns were not widespread, and could be relatively easily dealt with by a clarification of the protocol regarding Cabinet Members' role in scrutiny meetings. To do so would also enable other relatively minor areas of uncertainty to be clarified. (see Section 3)

Widening the opportunities for task group membership

2.34 Currently, the situation appears to be that if a panel (or the Commission) decides to establish a task and finish group, the expectation is that it will draw its membership from the panel (or Commission) which has established it. There have been one or two exceptions to this practice. However, there would be advantages in opening-up the opportunities for task group membership so that a member of the Sustainable Communities Panel, for example, who had a personal interest in the impact of the recession (a Commission-initiated topic) would be able to express that interest and became a member of the group concerned. There is also scope for extending the practice of co-opting outside experts on to task-and-finish groups.

Recognising the value of pre-meeting meetings and briefings

2.35 In my 2007 report I made the following recommendations (4.15)

'Panels should be encouraged to experiment with pre-meeting planning sessions, prior to meetings where a witness is providing important evidence in relation to a major area of concern'.

2.36 The intention was always that this kind of activity should be used sparingly, and certainly not as a matter of routine. The reality is that it is hardly used at all. Yet there are situations where it would really add value. When observing the rather disjointed process through which panels commented on the initial budget proposals (November 2009). I was struck by how much benefit could have been achieved if the panel had met beforehand, on an informal basis, advised by some combination of scrutiny team officers, financial services officers or external advisors, as a way of agreeing an agenda of questions to pose to the Cabinet member (and/or his or her financial adviser) involved. There would be other opportunities where this kind of process would be beneficial – the business plan, the community strategy or a major new policy initiative from the Cabinet. There is the potential objection that to operate in this way would add to the duration of panel meetings. There may however be compensatory time savings because of the increased focus that would be possible when the item was discussed at the formal panel meeting. Even if it did lead, every now and then, to a longer meeting, it would arguably be time well spent.

Finding new ways of strengthening public involvement

2.37 This is a well-established aim for overview and scrutiny for which there is support within the Cabinet and within the Commission. Although progress has been made there is still much that could be done. The performance measure for public involvement in scrutiny has indicated improvements over the past 2-3 years, but the measure involved is acknowledged to be a relatively crude one, which does not pick up the qualitative differences between different types of public involvement. Observing a scrutiny panel meeting is one thing; taking part in a task-and-finish group as a 'community representative' involves a much

deeper level of public involvement. Various ideas were volunteered by those interviewed – venues for scrutiny panel meetings outside the Civic Centre, more use of expert witnesses, more co-optees – which are evaluated in section 3.

Other issues

2.38 There is little evidence that Merton has introduced a facility for differentiating between different types of in-depth review, in particular between the traditional task-and-finish process typically taking six months or more, and the shorter more focused review, as advocated in my 2007 report. There appears to have been few if any examples of the latter (apart from the identification of an earlier piece of work in Mitcham town centre). The advantages of dealing with some issues in this way is that it increases the capacity of a panel (or the Commission) to cover a wider range of topics in a thorough evidence-based way (which is typically how scrutiny can add value). If my suggestion of one day seminars to carry out 'short, sharp scrutiny exercises' of this nature is felt to be infeasible, there are other ways of organising them. (see Section 3)

2.39 There would also be value in identifying situations where a 'workshop' model would, on occasion, provide a better format for taking forward a scrutiny issue than the scheduled formal panel meeting. This device has successfully been introduced in relation to performance monitoring. There are likely to be other occasions where it would be appropriate, for example the development of the annual work programme.

Section 3 : Proposals for Change

3.1   There are four important considerations to be taken into account in developing proposals for strengthening the overview and scrutiny function in Merton.

  ❖ The strengths and weaknesses of the current way of working, as discussed in Section 2 above.

  ❖ The impact of the recession and its financial impact on LB Merton, including the implications of the transformation programme.

  ❖ Recent changes and possible developments in the expectations and requirements of the overview and scrutiny role which stem from government legislation and policy.

  ❖ The local election scheduled for May 2010.

The local election

3.2   Taking the last consideration first, the challenge for LB Merton is to agree an approach to overview and scrutiny **before** the election which all parties would regard as fair and potentially effective **whatever** the electoral outcome. In this context, it is worth repeating a conclusion drawn earlier in the report (2.3) viz *Whatever the outcome of the 2010 local election, the effectiveness of the overview and scrutiny will be safeguarded if there is a similarly inclusive approach to the allocation of chairs and vice chairs, the details of which would need to reflect (not necessarily precisely) the political balance.*

Government legislation and policy

3.3   There is no doubt that the expectations and requirements placed by central government on the local government overview and scrutiny function have increased significantly over the past 4-5 years. Set out below is a summary of the main ways in which the role of overview and scrutiny has been extended.

  ❖ A requirement that each local authority instigates arrangements to enable it to scrutinise the work of crime and disorder partnerships (parallel to the role of health scrutiny).

❖ The introduction of a 'Councillor Call for Action' whereby members of the public can request local councillors to raise issues of concern to an overview and scrutiny committee.

❖ A requirement placed on 20+ public sector agencies to co-operate with overview and scrutiny reviews which are examining their policies or decisions (so long as such policies/decisions are made within the framework of local partnership arrangements, including Local Area Agreements).

❖ An encouragement to local authorities to pay more attention to scrutinising the performance of partnership programmes (reflecting the move from a local authority based CPA assessment to a **locality** based CAA (Comprehensive Area Assessment).

❖ An encouragement to local authorities to carry out more scrutiny at a **neighbourhood** (or sub-authority) level (this appeared in the 2006 White Paper but has not been followed up in 2007 Act itself. However it remains in line with government neighbourhood priorities).

3.4   More recently, the new Secretary of State for Communities and Local Government John Denham has outlined plans for further strengthening the capacity of local authorities to scrutinise the performance of partner organisations in their area.

3.5   These intentions may of course be sidelined by the result of the 2010 general election. However, there is nothing in the Conservatives' recent local government policy document which indicates a scaling down of the current set of overview and scrutiny functions in local authorities. It is thus a reasonable assumption that the current requirements and expectations of local authority scrutiny will at least continue at its current level, and may, in certain circumstances be further enhanced.

3.6   The situation outlined above creates a dilemma for all local authorities in the financial circumstances which have developed in the wake of the recession. The profile of overview and scrutiny has increased in recent years, a trend which is unlikely to be reversed. That increase in profile has put pressure on the resources earmarked within local authorities to support the function (except in the few authorities which have increased support resources in line with the increased demands). Yet in dealing with the financial consequences of the recession local authorities (including Merton) are likely to be looking for savings in all their services and functions, including 'overview and scrutiny support'. There is thus the real possibility of scrutiny support (however defined) being expected to do more than (or certainly as much as) it does at present with a reduced budget.

3.7   The extent to which priority should be given to overview and scrutiny vis-a-vis other functions and services is outside the scope of the brief for this review. What may be a helpful contribution is an identification and discussion of the different ways in which overview and scrutiny might continue to enjoy its current level of support (an increase in support is unlikely to be seen as a viable option) whilst at the same time taking account of the restrictive financial situation.

3.8   There are (at least) two possibilities which may be worth considering.

   i.   A simplification of the democratic structure for dealing with overview and scrutiny. A structure involving fewer panels (and correspondingly) fewer meetings would reduce the administrative burden on the Scrutiny Team (and in the Democratic Services Section) releasing additional time to be spend on the 'policy advice' side of scrutiny.

   ii. A consideration of different patterns of scrutiny support which placed more emphasis on the role of a wider network of scrutiny support (beyond the Scrutiny Team) throughout the council, thus enabling the Scrutiny Team to manage with reduced resources.

Rethinking democratic structure

3.9 As noted earlier, although Merton's overview and scrutiny structure is typical of
that operated by many authorities there are alternative, more streamlined options
which can be found. For example some authorities have decided that the remit of
a panel covering corporate issues (such as Merton's Corporate Capacity panel)
could become part of the remit of an overarching scrutiny body (such as Merton's
Scrutiny Commission) given that the latter, by definition, has a responsibility of
corporate authority-wide issues which overlaps with that of the panel. To adopt a
Commission plus 3 panel structure, which incorporated the role of the Corporate
Capacity panel within the Commission is thus one option. A more radical option
would be to follow the Harrow example of a single Scrutiny Commission working
with 2 sub-committees (or panels) one with a responsibility for Education and the
other with a responsibility for Health. The reason for retaining these panels is that
they have a statutory role, with the statutory co-optees for Education needing a
structural home, and the statutory requirements of Health scrutiny likewise (such
panels typically also have a number of co-opted members). A similar model was
used in LB Camden prior to 2006[*]. It would be possible to continue to link
education with other children and young peoples services, and health with adult
social care, if Merton so wished.

Although there is now a statutory responsible to have a designated scrutiny body
for crime and disorder matters this can be included within a body with wider
terms of reference (as Merton does currently within the Commission). There is not
sufficient business to make a strong case for having a separate body for the
scrutiny of crime and disorder matters in Merton at this time.

3.10 It would not be appropriate to make a specific recommendation for structural
change at this stage without further discussion and analysis. What is
recommended is that Merton considers such possibilities seriously, as a
contribution to reducing the administrative pressure of the current system, and
freeing up resources for more proactive scrutiny support work.

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[*] There is detailed knowledge of how this model worked available within the Scrutiny team

<u>Extending the scrutiny support network</u>

3.11 The second way in which it might be possible to (at least) retain the current level of scrutiny support, whilst reducing the capacity of the Scrutiny Team itself, would be strengthen the contribution of other directorates to the operation of overview and scrutiny. There is currently a system of 'scrutiny link officers' within the some of the directorates, including support to the scrutiny team through liaison on agenda content and deadlines. It is possible that this network of support could be strengthened in the following ways:

  ❖ A more explicit contractual expression of the nature of the support required of the link officer, and the proportion of his or her time which is allocated to this role. The role could then include liaison within the directorate, as is currently done in the Children Schools and Families Directorate, to ensure that expectations are clear in terms of report style and content and to ensure that the appropriate officers and Cabinet Members are available to present and answer questions at the scrutiny panel meeting.

  ❖ An extension of the number of link officers into service units within directorates, as well as directorates per se.

  ❖ An identification of sources of expertise, wherever they exist in the organisation, that can be called on by the Scrutiny Team on an 'as-and-when' basis, in relation to specific projects. 'Safer Merton' would be a good example of a council-linked organisation which possesses expertise likely to be value to the Scrutiny Team on various occasions. Policy and performance staff are another likely source of such expertise.

3.12 There are problems with this scenario. First overview and scrutiny needs a critical mass of dedicated support at the centre. If a reduction in capacity is felt to be necessary, it should be of a limited nature. Secondly, given the savings which will be sought across the board, under the Transformation programme, link officers – existing or to be designated – may argue that they no longer have the capacity to support scrutiny as well as carrying out their mainstream Cabinet-oriented tasks. In this connection, however, it is important to recall one

of the recommendations in the Scrutiny task groups 2006 report, which was agreed by the council in 2007 viz.

'That the status of the executive and the overview and scrutiny functions should have a parity of esteem across the organisation'.

3.13 One proposal which does not seem to me to be sensible is the idea of combining committee administration and scrutiny support roles in the same individuals – i.e. in effect merging the Scrutiny Team and a part of the Democratic Services Committee administration team. This proposal perhaps reflects a perception that at panel and Commission meetings there are two officers whose main activity appears to be note-taking. In fact the roles of the two individuals is very different – the scrutiny support officer is there to help the chair manage the agenda in a way which results in desired outcomes, whilst the democratic services officer is there to provide legal advice and to provide a true and accurate record of the proceedings, consistent with the overall standard of minute taking throughout the authority. The two roles are distinct and there would be nothing to be gained in combining them.

The role of overview and scrutiny in the budget process

3.14 In Section 2 (2.10 – 2.13) the problematic aspects of the present involvement of overview and scrutiny in the budget process, in particular the difficulties members have experienced in interpreting the budgetary information presented to them, and their consequent inability to make more than a marginal impact.

3.15 The following changes are recommended as a way of strengthening the capacity of overview and scrutiny to make a more positive in-depth contribution.

1. The 'two stage' process of involvement should remain. However the first stage (October/November) should be carried out by the Scrutiny Commission itself. Prior to the formal meeting, the Commission should meet informally with the Scrutiny Team and any other advisors it wishes to involve.

2. The second stage (January/February) should be retained in its present form. However, each Panel should be allocated a budget support officer from the finance staff of the authority, to aid them in understanding the

content of the budget and (in particular) the scope of possible options. As with the earlier Commission meeting, each Panel should meet informally with its adviser, a scrutiny team officer, and anyone else it wishes to involve prior to the formal meeting, at which key witnesses, including the relevant Cabinet Member(s) and the chief financial officer can be questioned.

3.16 The potential benefits of this approach are first that it would streamline the process, without loss of democratic accountability, and thus free up more time for the panels to deal with other scrutiny topics. Secondly, the use of financial advisors and informal sessions before the second stage panel meetings, should result in a more informed and focussed discussion with an enhanced likelihood of the panels being able to identify alternative savings to the savings-related proposals they wish to challenge. The fact that the chair and vice chairs of each panel are of different parties and would both be members of the Scrutiny Commission would ensure an adequately wide and politically diverse range of views, without an excess of meetings. If the approach works, there would be greater added value from less allocation of meeting time.

Selection of topics for in-depth study

3.17 In Section 2 (2.14 – 2.17) the need for greater rigour in the selection of topics for in-depth study through task-and-finish groups. The proposal here is that early in the municipal year a workshop session should be organised, to which all interested members of the scrutiny commission and panels are invited. The meeting should be structured in such a way that Cabinet members, officers and (where feasible) external organisations are invited to present and justify proposals for in-depth studies and to be prepared to answer questions from scrutiny panel members.[*] The scrutiny members present should then be divided into three or four small groups to compare the various proposals, using the council's criteria for selection, and identify a limited number of preferred topics with justifications for their choice. This choice process should be facilitated by the Scrutiny Team. The choices made by the small group should then be

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[*] Scrutiny members would of course also have the opportunity to propose topics.

discussed in a plenary session, at which a 'top ten' list should be agreed, leaving a degree of flexibility for Commission and panels to prioritise the items (and to introduce new items in response to unanticipated issues during the course of the year).

3.18 This approach should lead to a better informed discussion and a greater probability of the choices identified being ones which have the greatest potential to 'add value'. It would also provide an enhanced opportunity for influence from Cabinet members, senior council officers and partner representatives.

3.19 Two further changes would be beneficial in this context. First the opportunity to serve on a task-and-finish group should be open to any council member (Cabinet members excepted – although they should be encouraged to give evidence where appropriate). Membership should not be restricted to the panel (or commission) which has local responsibility for the project. The topics of all task groups should be publicised before they commence, so that those interested have the chance to express their interest.

3.20 There would also be advantage in greater use of the shorter in-depth reviews advocated in my 2005 report.
'Both the Scrutiny Commission and each of the panels should be permitted to instigate shorter 'quick-and-dirty' scrutiny reviews which investigate issues of concern (e.g. declining performance of a service).

3.21 Such reviews could emerge from the annual workshop proposed in 3.17 above, or in relation to issues which capture member's attention during the course of the year (the recent consideration of the council's use of consultants by the Corporate Capacity Panel provides one such example). The work involved could be carried out as part of a panel's normal agenda or by a small panel meeting over a relatively short time period (2-3 months). The advantage of placing more emphasis on this mechanism would be the opportunity to cover in

depth a greater number and wider range of issues, as a result of differentiating between the scale of the reviews required.

The content and management of scrutiny agendas

3.22 The principles of good scrutiny agenda management are well-understood, certainly by the Scrutiny Team and to an increasing extent by chairs and vice chairs of panels. It is understood that items for information (or 'noting') should not be included (if necessary, they can be circulated and dealt with by other means) and that agendas should include only a small number of substantive items, in relation to all of which there should be the potential for the Panel or Commission to 'add value'. Prioritisation of agenda items should take place where necessary. The reports presented to a Panel should be written in such a way that panel members can grasp the issues concerned and understand where and how they can 'make a difference'. Where appropriate such guidance should be provided by a briefing paper, drafted by the Scrutiny Team (or in some cases a mainstream officer – e.g. in relation to the budget).

3.23 These principles are well-understood, which raises the issue of why agendas do not always meet their criteria? There are a number of possible explanations. In one or two cases it may be an over-emphasis on pre-decision scrutiny (see 2.20 ff above). In the case of the health part of the Healthier Communities and Older People Panel agendas there are a number of items of statutory consultation which have to be included. It is also the case that chief officers may (not unreasonably) consider that it is important for a Panel to 'understand' a new piece of legislation or government requirement if it is to be able to make recommendations on its subject matter in due course, and that panel chairs may (equally understandably) be sympathetic to such initiatives.

3.24 Given that the principles involved appear to be accepted (if not always put into operation) the main challenge is to find ways of embedding them more firmly in the culture and practice of overview and scrutiny. There are two main possibilities here

❖ An emphasis in training modules – both for chairs and new members – highlighting the importance (and benefits) of good agenda management.

❖ The greater use of occasional agenda 'health checks' – for example an end of meeting debriefing on the way the agenda worked – which items had been worth spending time on and which items less so. Alternatively at the end of a municipal year a review could be carried out if the six agendas considered during the course of the year (with a briefing paper from the Scrutiny Team) from which lessons could be learned for the following year's work.

3.25 It has already been noted that there would be circumstances where an informal pre-meeting would be beneficial – for example to prepare a questioning strategy for a high status witness (e.g. the Borough Police Commander). To do so would provide one example of a number of possibilities of moving away from the typical committee-like ambience of most commission and panel meetings. Other possibilities include re-constituting the panel meeting as a workshop session (similar in format to the proposed set out in 3.17 for the workshop to develop the programme for in-depth studies), using a select committee format (which could perhaps be applied in call-ins or councillor calls for action) or devoting a meeting wholly to a short, sharp scrutiny review of a current issue of concern. Really, anything which helps members to realise that there are other ways of 'doing scrutiny' than the familiar committee model would be beneficial.

Strengthening training and development

3.26 The case for strengthening training and development was made in 2.25ff above. There is a real opportunity for doing so following the May 2010 local election, as a result of which there are likely to be a significant number of new members, and at least some new scrutiny chairs and vice-chairs. It is difficult to insist that new councillors (and chairs and vice-chairs) take up such training, although precedents have been established in relation to planning and other regulatory activities. However there is an increasing recognition with central government and national organisations of local government that training and development is an essential pre-requisite for councillors to do an effective job. This point could

be emphasised to new (and indeed all) councillors at the first opportunity after the election.

3.27 Priorities in relation to overview and scrutiny training would include the following:

- ❖ Introductory training for all members about the nature of overview and scrutiny, the contribution it can make, and the member skills necessary to ensure that it works effectively.

- ❖ Once the composition of the Commission and the different panels has been decided, subject-specific briefings for members on the legislative and substantive context of the subject matter concerned (e.g. Children and Young People : Healthier Communities and Older People) with an emphasis on the role and powers of LB Merton, and the influence overview and scrutiny can have.

- ❖ Training for chairs and vice-chairs focusing on the particular skills required to ensure that overview and scrutiny makes a difference – including agenda management, political impartiality, managing question-and-answer sessions etc.

3.28 These initial training activities could be followed in due course by training in questioning and analytical skills for all scrutiny members. There would also be value in the re-launching of the training programme for officers which was an imaginative attempt to increase the sensitivity of mainstream officers to the particular requirements of overview and scrutiny. In all cases the more scrutiny team officers can be involved in the design and delivery of the programme the better. They have the detailed knowledge of the qualities and culture of overview and scrutiny in Merton, which outsiders would lack.

Strengthening the links between overview-and-scrutiny and the Cabinet

3.29 There are three ways in which these links could be strengthened, assuming the council wishes to do so (there was some, although not unanimous support for a move in this direction).

- ❖ Annual meetings, between the Cabinet and the scrutiny commission, at the start of the municipal year, to compare work programme intentions and priorities.

- ❖ 'Triangulation' meetings (perhaps twice-yearly) between the chair of the scrutiny panel, the relevant Cabinet members and the director involved to explore similar issues and to ensure that overlap and duplication were avoided. This mechanism could also indicate the vice chair of the panel, and may need to involve more members if the remit of the panel covers the remits more than one Cabinet member or director.

- ❖ Involvement of Cabinet members in the workshop to develop the programme of in-depth scrutiny studies for the coming year (as discussed in 3.17 above).

3.30 There are also some procedural issues regarding the involvement of Cabinet members in overview and scrutiny meetings which need to be clarified. Much of the following is reasonably well-known and accepted, but there remains a degree of uncertainty.

- ❖ Cabinet members are required to attend (by law) when requested to do so by a scrutiny panel for a specific purpose.

- ❖ Otherwise Cabinet members may choose to attend (as observers) but should not take part in discussion except at the request or with the permission of the chair.

- ❖ Whenever possible Cabinet members should be provided beforehand with a brief from the panel outlining the information is required; otherwise Cabinet members can reasonably assume that no pre-determined list of questions has been discussed.

- ❖ Items involving Cabinet members should be programmed in such a way that their waiting time is minimised.

- ❖ Cabinet members should be treated with the same degree of courtesy as external witnesses (and indeed, council officers). This provision does not preclude the panel members from questioning them in a robust and where necessary persistent manner.

3.31 Like many local authorities, Merton would clearly like to involve more members of the public in the work of overview and scrutiny, but has not found it easy to devise effective means of doing so. There is little point in seeking to attract more members of the public to routine meetings of the Commission and Panels at the Civic Centre. There is no record of success in doing so elsewhere, except where there has been an issue causing local controversy on the agenda such as the closure of a local school. The public turnout at the Councillor Call for Action in relation to the police action regarding the siting of a Travellers encampment in Mitcham illustrates this general finding. Some authorities have experimented with varying the location of scrutiny panel meetings, using local schools or community halls, but this only really has any point if the main agenda item is relevant to the community (e.g. discussion of how to deal with bullying could be held in a school where this is a real problem).

3.32 The most promising vehicles for involving the public are the task groups which are addressing problems where the experiences and perceptions of those affected will be of real value to the work of the task group. In some cases the most valuable contributors will be representative voluntary organisations (e.g. Age Concern) but often there will also be benefit in soliciting the views of those directly involved (e.g. disabled people in a study of access problems in a town centre; those using a local hospital facility which is scheduled for closure; residents of local nursing homes). Two recent studies – the 'Fear of Crime' and the (yet to be completed) 'Impact of the Recession' both afford considerable opportunities for seeking the views of local people which have to some extent at least been taken advantage of. This kind of 'direct line' to public experience and viewpoints invariably strengthens the credibility of the task group report. A related area for development in Merton is a greater readiness to use co-optees on task groups (usually representatives of organisations, but there is scope to co-opt non-affiliated members of the public on task groups). There is also, of course, scope to use such individuals as expert witnesses, if that is more appropriate than co-opted membership.

Recommendations

1. Whatever the outcome of the 2010 local election, the effectiveness of the overview and scrutiny will be safeguarded if there is a similarly inclusive approach to the allocation of chairs and vice chairs, the details of which would need to reflect (not necessarily precisely) the political balance.

2. As part of the council's transformation programme, options for more streamlined democratic structures for overview and scrutiny should be investigated (see 3.9 – 3.10).

3. As part of the same programme, alternative means of supporting overview and scrutiny should be investigated, whilst retaining a dedicated scrutiny team, e.g. strengthening the 'link officer' system and identifying other sources of expertise (see 3.11 – 2.13).

4. The involvement of overview and scrutiny in the budget process should be improved in the following ways (see 3.14 – 3.16). The 'two stage' process of involvement (October/November) should remain. However the first stage should be carried out by the Scrutiny Commission itself. Prior to the formal meeting, the Commission should meet informally with the Scrutiny Team and any other advisors it wishes to involve. The second stage (January/February) should be retained in its present form. However each Panel should be allocated a budget support officer from the finance staff of the authority, to aid them in understanding the content of the budget and (in particular) the scope of possible options.

5. The selection of topics for in-depth scrutiny should in future be carried out as follows. Early in the municipal year a workshop session should be organised, to which all interested members of the Scrutiny Commission and Panels are invited. The meeting should be structured in such a way that Cabinet members, officers and (where feasible) external organisations are invited to present and justify proposals for in-depth studies and to be prepared to answer questions from scrutiny panel members. The scrutiny members present should then be divided into three or four

small groups to compare the various proposals, using the council's criteria for selection, to identify a limited number of preferred topics (with justifications).

6. The opportunity to serve on a task-and-finish group should be open to any council Member who is not on the Cabinet. Task group topics should be publicised before the work commences to facilitate this process.

7. Greater use should be made of the shorter 'quick and dirty' scrutiny reviews advocated in my 2007 Report, to provide the opportunity to cover in reasonable depth a greater number and wider range of issues.

8. The principles of good agenda management (see 3.22) should be re-emphasised and their implementation strengthened in the following ways. (see 3.23 – 3.24)
    - ❖ An emphasis in training modules – both for chairs and new members – highlighting the importance (and benefits) of good agenda management.
    - ❖ The greater use of occasional agenda 'health checks' – for example an end of meeting debriefing on the way the agenda worked – which items had been worth spending time on and which items less so. Alternatively at the end of a municipal year a review could be carried out if the six agendas considered during the course of the year.

9. It is important however that overview and scrutiny panels are **selective** in their approach, to pre-decision scrutiny. It should not become a routine process, whereby all Cabinet key decisions are automatically channelled through to the relevant Panel.

10. There should be a greater use of informal preparatory sessions, on a selective basis, to develop a 'strategy for questioning' presenters of an important report.

11. A training programme for overview and scrutiny members should be developed and launched immediately after the 2010 election, with the following priorities.

❖ Introductory training for all members about the nature of overview and scrutiny, the contribution it can make, and the member skills necessary to ensure that it works effectively.

❖ Once the composition of the Commission and the different panels has been decided, subject-specific briefings for members on the legislative and substantive context of the subject matter concerned (e.g. Children and Young People : Healthier Communities and Older People) with an emphasis on the role and powers of LB Merton, and the influence overview and scrutiny can have.

❖ Training for chairs and vice-chairs focusing on the particular skills required to ensure that overview and scrutiny makes a difference – including agenda management, political impartiality, managing question-and-answer sessions etc.

12. Links between the executive and overview and scrutiny should be strengthened in the following ways, whilst ensuring that the independence of the latter is safeguarded.

❖ Annual meetings, between the Cabinet and the Scrutiny Commission, at the start of the municipal year, to compare work programme intentions and priorities.

❖ 'Triangulation' meetings (perhaps twice-yearly) between the chair of the scrutiny panel, the relevant Cabinet Members and the Director involved to explore similar issues and to ensure that overlap and duplication were avoided.

❖ Involvement of Cabinet Members in the workshop to develop the programme of in-depth scrutiny studies for the coming year

13. Criteria relating to the attendance of Cabinet Members at overview and scrutiny meetings and to what is expected of them should be clarified, (as discussed in 3.29 – 3.30).

14. Public involvement in overview and scrutiny in Merton should be strengthened, with particular emphasis on involving the public in task groups which are

addressing problems where the experiences and perceptions of those affected will be of real value to the work of the task group. In some cases the most valuable contributors will be representative voluntary organisations (e.g. Age Concern) but often there will also be benefit in soliciting the views of those directly involved.

15. There should be a greater readiness to use co-optees on task groups (usually representatives of organisations, but there is scope to co-opt non-affiliated members of the public on task groups.) There is also, scope to use such individuals as expert witnesses, if that is more appropriate than co-opted membership.