Assessing the impact of the new scrutiny arrangements in LB Merton

Prof. Steve Leach

Section 1: Introduction

1.1   In December 2005 I carried out a review of the overview and scrutiny function in the London Borough of Merton. My report – submitted in January 2006 – included 21 recommendations for improving the function, all but two of which were accepted and incorporated into the broader review of overview and scrutiny carried out by a task group set up by the Overview and Scrutiny Commission, which reported in April 2006.

1.2   I was asked in January 2007 to carry out an independent assessment of the impact of new arrangements introduced following the above review. This report presents my findings. It draws upon a series of interviews carried out with members and officers over the period 27 February-1March 2007 and a range of documentary evidence (see Appendix I for details). I am again grateful to all those who agreed to spend time answering my questions and discussing progress, and in particular to Kate Martyn, Scrutiny Manager, for organising my programme of work and providing an invaluable point of reference throughout the project.

1.3   There are two levels of criteria which can be used to assess the impact of the new arrangements. First, it can be asked to what extent the 38 recommendations set out in Council's review of overview and scrutiny have been implemented. The council has already carried out an exercise of this nature, which was made available to me, and which I used as a comparator

with my own observations. Secondly, it can be asked to what extent the changes introduced have made scrutiny more effective. A range of criteria of effectiveness were set out in my own report (paras 2.1 – 2.9) and in LB Merton review (paras 2.1 – 2.6). These effectiveness criteria – drawing on work by the Centre for Public Scrutiny, the Audit Commission, the 2002 ODPM report[1] and my own work – can be summarised as follows:

- ❖ Is scrutiny operating effectively in terms of providing a **'critical friend'** challenge to the executive and other bodies?
- ❖ Is scrutiny contributing to the **development and review of policy** (including the budget and the authority's corporate priorities)?
- ❖ Is scrutiny contributing to **improved service delivery** (primarily through its performance monitoring role)?
- ❖ Is scrutiny engaging with **external agencies** and addressing **issues of public concern** in its work programme?
- ❖ Is scrutiny **engaging the public** (including stakeholders) in its work?

1.4 The way in which judgements have been made in assessing the effectiveness of scrutiny in relation to each of these categories is explained later in the report when each category is subject to detailed analysis.

Section 2: Progress on overview and scrutiny: A broad assessment

2.1 It may be helpful, before the recommendations and criteria of evaluation are examined in more detail, to provide an overview of the results of my investigation.

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[1] The Development of Overview and Scrutiny in Local Government, ODPM, 2002

2.2 There is no doubt that the overview and scrutiny function has improved considerably since April 2006. I would regard the **infrastructure** for overview and scrutiny – the structures, processes and systems which currently operate – as constituting good practice, which could beneficially be adopted by other authorities. In particular, I would emphasise the positive impact of the following changes which have been introduced:

- ❖ the basis on which the positions of responsibility on the commission and panels have been allocated amongst the different party groups;
- ❖ the simplification of the call-in procedure;
- ❖ the redefinition of the respective roles of the overview and scrutiny commission and panels;
- ❖ the improvements in the structure and content of the agendas for commission and panel meetings;
- ❖ the way in which the involvement of overview and scrutiny in the business plan/ budget process has been organised; and
- ❖ the requirement that the cabinet should respond to all recommendations submitted from overview and scrutiny.

2.3 There is widespread acceptance amongst the officers and members I spoke to (with only one or two dissenting voices) that all these changes (and others) have been beneficial and have facilitated the opportunity for effective overview and scrutiny. There is scope for improvements at the margin, but the infrastructure is now coherent and 'fit for purpose'. If the opportunities provided by the new arrangements have not yet always been fully realised, there are understandable reasons for this (see below).

2.4   To understand the way in which any major organisational change is taken forward and interpreted, it is important to understand the political context into which the change is projected. The Scrutiny Review's recommendations were agreed in April 2006, shortly before the local election – the result of which could not (at the time) be confidently predicted. There was in fact a 'knife-edge' outcome, with the Conservatives winning exactly half the council seats, and (with the support of the Merton Park Ward Independent Residents) forming an administration (in so far as they hold all cabinet seats and the leadership of the council). However, the election of a Labour mayor of the council (with the support of the MPWIR group) means that the Conservative group need the support of others to ensure that their policy initiatives (including the budget) are passed by council.

2.5   The nature of the 'political context' in Merton has had a number of repercussions for overview and scrutiny, some of them positive, some negative. The first important point to recognise is that after an election which has resulted in a change of administration, there is invariably a lengthy 'period of adjustment' during which the new administration gets used to the responsibilities (and difficulties) of holding power, and the previous administration develops a way of working in an unaccustomed (and unwelcome) opposition mode. This 'process of adjustment' is likely to be even more demanding given the closeness of the result in Merton and the fact that there is no one party with a clear majority. There is also the fact that in its first year of office a new administration is obliged to work (more or less) to a budget it has inherited from its predecessors.

2.6   In these circumstances a straightforward and consensual implementation of a set of recommendations agreed before the election would not necessarily be

expected. It is to the authority's credit that so much successful implementation has taken place. In the cases where implementation has been slow, or has not developed in expected ways, the explanation is usually to be found in the new political context, for example:

- ❖ There has been much more emphasis on policy issues than on performance monitoring in overview and scrutiny (not surprising given a new administration's desire to focus on its own distinctive priorities);
- ❖ The opposition have (understandably) used the call-in procedure to challenge what it sees as undesirable policy-based changes;
- ❖ Overview and scrutiny's emphasis on looking at the business plan and budget process from a relatively early stage in the life of the new administration has led to the retention of party-based pre-meetings before panel and commission meetings – again, not surprising, given the intrinsically political nature of the budget; and
- ❖ The lack of overall control (at council level) has led to an increasing predisposition on the part of the cabinet to encourage pre-decision scrutiny of major decisions by scrutiny panels.

2.7   Of these developments, it is only the last that would be seen as a positive outcome, the other three are less congruent with the underlying philosophy of the Scrutiny Review. However all are understandable, and all can be accounted for by the nature of the political change.

2.8   Thus, although in some respects progress has been slower than might have been hoped for during the first post-election year, I am confident that the momentum of positive change will be increased in the next year or two, as all

party groups (and officers) make adjustments to the new political circumstances and a new 'modus operandi' becomes established.

2.9 Of the Scrutiny Review report's 38 recommendations, the final one relates to constitutional amendments and has already been implemented. The remaining 37 can be grouped as follows for the purpose of analysis:

<u>Changes in structures and formal responsibilities</u>

Recommendations 2, 4, 6, 9, 16, 17, 18, 31, 38

<u>Improvement of processes and scrutiny venues</u>

Recommendations 7, 11, 13, 19, 20, 21, 22, 23, 25, 26, 30, 31, 34, 35

<u>Management of meetings and agendas</u>

Recommendations 1, 8, 10, 12, 14, 27, 28, 29, 33

<u>Improvements in resourcing and support of overview and scrutiny (and training)</u>

Recommendations 1, 3, 5, 15, 24

2.10 Taken together these recommendations constitute an ambitious set of proposals for clarifying the roles and purposes of overview and scrutiny and developing an appropriate infrastructure (Support, Resources, Structures, Processes, Training and Development) to maximise the opportunities for effective scrutiny to develop.

2.11 Some of the recommendations also impinge directly on the **effectiveness** criteria, in outcome terms, which were set out in 1.3 above.

<u>'Critical friend' challenge</u>

Recommendations 1, 2, 4, 21, 22, 25, 26

<u>Policy development and review </u>(including budget)

Recommendations 1, 11, 28

<u>Improved service delivery</u>

Recommendations 27, 37

<u>External scrutiny and response to issues of public concern</u>

Recommendations 1, 7, 20, 22

<u>Public engagement</u>

Recommendations 20, 24, 32, 36

2.12 The most logical approach to analysis is to start with an evaluation of the five effectiveness criteria, including the contribution of the relevant changes in infrastructure, and then to discuss the progress of recommendations which have a broader impact.

Section 3: Assessing the effectiveness of the new arrangements

<u>Effective 'critical friend' challenge</u>

3.1 There are several ways in which the operation of this role has improved since May 2006. First of all, the process for dealing with call-in has become clearer, fairer and less contentious. Decisions about the justification for call-in are now made by the Monitoring Officer, rather than in the political arena of the overview and scrutiny commission. The benefits of this change are widely acknowledged. There have been four call-in requests since May 2006 which have provided a useful test of the robustness of the procedure as a vehicle for holding the executive to account.

3.2 The way the call-ins are now heard also represents an improvement. The seating arrangements are such that the differentiation between the call-in applicant and those hearing the evidence and making a judgement have been clarified, thus giving a more transparent quality to the proceedings.

3.3 It is not surprising that each of the call-ins has been initiated by members of the group which does not form the executive. But this does not seem to have generated any resentment on the executive's part. In each case there was value added by the call-in proceedings, including a clarification of the justification for an initiative (the use of the 'Putting You First' slogan), a change in budget virement (the 'environmental improvements' initiative), the setting up of a scrutiny task and finish group (Mitcham Town Centre Regeneration), and the clarification of the link between a specific housing decision and the council's housing strategy.

3.4 Everyone I interviewed agreed that the operation and impact of the call-in procedure had improved (although opposition members will sometimes be disappointed about call-in outcomes). It has been tested in a challenging political environment, following a change of administration, and has demonstrated its value in holding the executive to account.

3.5 This positive change has been facilitated by the revised basis for allocating positions of responsibility in overview and scrutiny. The appointment of a Merton Park Ward Independent Residents councillor as chair of the overview and scrutiny commission and the allocation of chairs and vice chairs of the panels on a politically proportional basis (with the party affiliation of chair and vice-chair of a given panel always being different) is in line with the recommendations of the Scrutiny Review report, the advice of the Centre for Public Scrutiny and good practice in other authorities. These changes have given an independence to the lead member role in overview and scrutiny, and contributed to a genuine sense of shared responsibility for the function. Other models have their advocates (including a 'greater than proportional' allocation

of opposition chairs) but in my view the approach adopted in LB Merton is the most appropriate one, and has had a demonstrably beneficial effect.

3.6 Unlike the pre-May 2006 situation, the chair of the overview and scrutiny commission does not attend private meetings of the cabinet. There are periodic informal discussion between the council leader and the chair of the commission, which provides a helpful link. The fact that there are not yet regular meetings between the cabinet and the commission is probably appropriate, at this stage, in highlighting the independence and detachment of the overview and scrutiny function.

3.7 There is a case for introducing meetings between the cabinet and commission on an annual basis at the start of the municipal year to discuss work programmes and where appropriate to seek to influence them. There would also be a benefit in periodic meetings between the chairs and vice chairs of each panel and their corresponding cabinet member(s) to flag up what is on each other's work plan and identifying potential opportunities to work together/ avoid duplication.

3.8 In all these ways the 'holding to account' function of the council has been strengthened. Procedures are now much clearer, and the way call-ins have been handled have both demonstrated the relevance of the function and resulted in some beneficial outcomes.

Contribution to policy development and review

3.9 In relation to this function, good practice was already emerging in the period when the pre-May 2006 review was carried out. There have been further

positive developments since. There is widespread support – amongst members and officers alike – of the value of task and finish groups. Much of the substantive work of overview and scrutiny is now undertaken in this way, and has resulted in some good reports (e.g. the Review of Youth Engagement and Youth Services; Merton as an employer of disabled people) which have typically proved acceptable to the executive and have improved council policy. The subjects identified for the task and finish groups for 2006/07 have been subject to a wider process of consultation and discussion and provide (in my view and with minor reservations) an appropriate list of topics, all with the potential for adding value. Although most of these groups have yet to report, there is positive feedback about their progress. The value of shorter policy reviews has been recognised, for example in relation to the work on Mitcham Town Centre regeneration. The cabinet appears predisposed to be receptive to the work of such groups. This function is continuing to develop well as a positive aspect of the work of overview and scrutiny in Merton, to which there is real member and officer commitment.

3.10 Over the July 2006-January 2007 period, the involvement of overview and scrutiny in the budget formulation process has occupied a good deal of time and energy within the panels and the commission itself. There are several aspects of this process which merit discussion. First, there is a general view that the process through which overview and scrutiny is involved has improved considerably since it was operated in 2005/06 (which itself was a significant improvement on 2004/05). In particular the multi-stage process, beginning with a consideration of priorities (facilitated by a members' seminar) and culminating in the presentation of a series of recommendations to the cabinet was welcomed and seen as the logical way to deal with the budget. Secondly, the division of labour between panels and commission was positively evaluated.

Thirdly, the outcome whereby the recommendations of the scrutiny commission (which reflected, in turn, the work of the panels) were considered and largely accepted by the cabinet was seen as encouraging (and evidence that the cabinet was prepared to listen and respond to the work of overview and scrutiny).

3.11 However, the experience was not 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 (although that outcome might have been more problematical for the cabinet). There was also a view that the commitment of time involved was not commensurate with the level of impact which had been achieved.

3.12 My impression is one of a good, well-structured process, the opportunities within which have not yet been fully exploited. However, there are good reasons why this should have been so. The process started later in the financial year than would have been preferable, thus limiting the scope for considered reflection. There are 24 new members on the council who have understandably found their capacity to understand and contribute to the budget process somewhat limited. There were doubts within the party which has not formed the administration as to whether there was any realistic prospect that the new administration would be 'open to influence' over the business plan and the budget.

3.13 Some of these problems will have lessened when the next budget round gets under way in the summer of 2007. The new intake of councillors will be more

experienced. There is scope for fine-tuning the discussion of priority-setting in the seminar on the business plan which kick-starts the process. There may now be more optimism about 'capacity to influence' (which is justified, given the vulnerability of the administration at full council, where it does not hold an overall majority). There are grounds for confidence that the process will add more value and prove more satisfying for members in the next budgetary round.

3.14 The fact that Merton is technically a 'no overall control' authority has also been influential in increasing the scope for pre-decision scrutiny. The cabinet has shown an appreciation of the value of this process in its support to set up a task and finish group to consider options for the future of the council's housing stock. It is clearly to its advantage to seek a consensus on matters such as this, which are likely to prove controversial, before it takes a decision to recommend a policy to council. In this kind of situation there is invariably an enhanced scope for pre-decision scrutiny.

3.15 It is important however, that in these circumstances 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. There have been instances recently of a panel having three or four such items tabled at one of its meetings. 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.

Performance monitoring and improved service delivery

3.16 The value of overview and scrutiny contributing to improved service delivery through a performance monitoring role was highlighted in my earlier report, and

in the report of the task group. A process for ensuring that the respective roles of the executive and overview and scrutiny did not overlap was set out.[2] The key to the effective performance of this role is 'management by exception'.

3.17 There have been several specific improvements in the way performance monitoring is dealt with. First, the presentation of performance information has improved, aided by the introduction of the 'dashboard' mechanism for displaying information. It is now in principle easier for members to identify topics of concern. Secondly, the identification in each panel of a 'lead member' for performance monitoring is a sensible innovation. Thirdly, the running of a seminar on the topic last autumn was a helpful initiative. The (relatively few) members who had attended it clearly felt that they had benefited. If it is repeated, and more members have a better understanding of the process, then the quality of performance monitoring should improve.

3.18 However as the council's own evaluation acknowledges, there is still some way to go before this function is fulfilling its potential. It has not yet caught the imagination of enough members to have made a real impact. There have been some (isolated) successes. The Life Chances Panel identified performance data which raised doubts about the extent to which the target of 'four-weekly visits to children at risk' was being achieved. The questions this panel raised led to an internal review in the department concerned aimed at improving performance. This is a good example of how 'performance monitoring' can make a real contribution to service delivery.

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[2] See Recommendation 17 of Review of Overview and Scrutiny in the London Borough of Merton, Prof. Steve Leach, January 2006

3.19 As noted in Section 2, there has been an understandable emphasis on 'policy' rather than performance, during the first year of the new administration, on the part of both executive and overview and scrutiny. This emphasis is likely to change in the second year, when the priorities of the new administration will have been reflected in the budget, and there will be more incentive to scrutinise performance. The requisite infrastructure is in place. What is needed is a greater level of member understanding and commitment.

External scrutiny

3.20 The work of the Health and Community Care Panel has widened in scope since the strengthening of its statutory role in the scrutiny of health performance. It received (with some reservations) a positive evaluation of its activities in both external reviews (e.g. Richard Poxton's Interim Review of Health Scrutiny) and Merton's internal review of the overview and scrutiny function.

3.21 In so far as I can judge, the panel has continued to play a proactive role with an ambitious programme of in-depth studies. The study on the prevention of ill health was perhaps too wide in scope, but the panel has learned from the experience of carrying out this study. The panel has sensibly avoided becoming bogged down in the monitoring of health performance statistics, which could lead to a neglect of in-depth studies of areas of health service delivery which have a high profile with the public. The panel has continued to be challenging in its approach, which is in principle a desirable attribute. But a delicate balancing act is required here. The various health agencies, including the PCT, have to date been co-operative in their approach. A PCT interviewee argued that the input of the panel was welcome as a guide to the impact of

health services on the people of Merton ('a very useful reminder of the need to get things right'). The view was that the relationship was improving, but that there was concern about the style of questioning that had sometimes been adopted by panel members, particularly when directed at health professionals who were not accustomed to the scrutiny process. Care needs to be taken to ensure that the co-operative attitude of the PCT (and other health agencies) continues, without losing the readiness to challenge in the appropriate way, where it is right to do so. This point will be equally relevant when LB Merton starts to scrutinise other partners.

3.22 There are indications of a readiness on the part of LB Merton to include in its range of in-depth studies more 'external' scrutiny studies (i.e. studies which reflect issues of public concern, but where the prime responsibility for the service (or policy) does not lie with LB Merton itself). Opportunities have been provided for members of the public to contribute to the agenda of issues considered by scrutiny. Public concern is one of the criteria used in selecting topics for in-depth review. However, the current programme of reviews remains dominated by 'internal' topics, where the prime responsibility is with the council. When the proposals in the recent White Paper, which strengthen the capacity of scrutiny to challenge the politics of other agencies are enacted, then 'external scrutiny' is likely to increase its profile in LB Merton. Currently it is developing only slowly.

<u>Strengthening public involvement</u>

3.23 The desirability of achieving this objective is recognised in the council's Scrutiny Review[3]. Again, there has been some progress. The number of members of the public involved in scrutiny initiatives (406 between April 2006 and January 2007) is 'above target' and future targets have been increased. In two on-going studies – the reviews of the libraries and of housing repairs services – there have been explicit attempts to draw in members of the public and solicit their views. The Health and Community Care Panel has continued to attract members of the public to its meetings in a way which other panels find difficult. There are plans to hold scrutiny panel meetings in venues other than the Civic Centre.

3.24 All these initiatives are welcome moves in the direction of greater public involvement. But they are limited in scope. There remain few examples of co-option of local group representatives or experts on the scrutiny panels (or, more importantly, on to task-and-finish groups). There has been little public interest or impact in suggesting topics for scrutiny. The use of the 'scrutiny fund' for either purpose has been limited. There is a sense in which, although the intentions are there, attempts to involve the public on a diverse but coherent set of ways are still in an embryonic state.

3.25 The forthcoming Local Government Act is likely to place considerable emphasis on the development of scrutiny at a local (sub-borough) level, including the new mechanism of the 'Community Call for Action'. It is to the council's credit that it has volunteered to act as a pilot for this new initiative. The fact that there is a

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[3] See Recommendation 32 of the scrutiny review of overview and scrutiny at LB Merton, March 2006

scrutiny task and finish group currently considering 'Neighbourhood Governance' is timely and there are grounds for confidence that, whilst progress on public engagement has so far been slow, it is likely to develop much faster when the Act comes into force and the task group's report has been adopted.

Section 4: Implementation of recommendations

4.1   As noted in Section 1, the changes that have been introduced as a result of the April 2006 Review of Overview and Scrutiny have provided an excellent basis for the strengthening of overview and scrutiny in Merton. In Section 3 it was argued that whilst these changes had resulted in some significantly improved outcomes, particularly in relation to holding the executive to account and policy development and review, in other cases progress had been slower or more patchy (performance monitoring, external scrutiny, public involvement). The important point to emphasise however that is the infrastructure is now in place to encourage and facilitate further progress, once the period of adjustment following the change of administration in May 2006 has run its course.

4.2   In this section progress in relation to the recommendations is summarised under four headings: structures; processes; agendas (and meetings); and resources and support. A few recommendations for further improving the scrutiny infrastructure are then set out.

Structures

4.3   The structural changes introduced as a result of the May 2006 report have generated widespread support and provide the basis for all-party ownership of the overview and scrutiny function. The appointment of an independent

councillor as chair of the overview and scrutiny commission, and the proportional allocation of chairs and vice-chairs, are in line with good practice advice from the Audit Commission (and others). The redefinition of the relationship between the commission and the panels has only been widely supported and proved beneficial. LB Merton now has a set of structured arrangements which are 'fit for purpose'.

Processes

4.4 The major process changes introduced as a result of the April 2006 report can all be regarded as good practice and have contributed to the improvement of scrutiny outcomes (see Section 3). The sequential process of scrutiny involvement in the business plan and the budget has been clarified and strengthened. The call-in process has been modified in a way which has proved widely acceptable and which has contributed to an acknowledgement of the value of call-in as an important democratic safeguard. The requirement that the executive should respond to all scrutiny recommendations within a given time span has been implemented and has overcome previous problems of delayed (or inconclusive) response. Pre-decision scrutiny is now better understood by members and is working more consistently (with some dangers of overuse see 3.15).

4.5 The practice of identifying on each scrutiny panel individual members who (in one case) have a lead responsibility for reviewing performance information and identifying potential problems and (in another) have lead responsibility for ensuring that a scrutiny report which has been accepted by the executive is progressed satisfactorily, are interesting and potentially valuable innovations which have yet to realise their full potential. This may reflect a degree of confusion amongst those who have been selected as to what the role involves.

With further clarification and experience it should prove possible to increase the impact of these innovations.

<u>Agendas and meetings</u>

4.6   The lead role of the Scrutiny Team in managing the agenda 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 which they wish to see presented or discussed are not necessarily appropriate.

4.7   The formal meetings of commission and panels still appear to operate very much as business meetings with often quite extensive agendas. This is not in itself a problem so long as much of a panel's responsibilities are carried out within task and finish groups (which does now appear to be the case). There have been some attempts to introduce the idea of more limited scrutiny reviews within the agendas of panel meetings[4] but it is too early to judge the feasibility of this idea (although the review of the future of Mitcham town centre appears to be progressing well).

4.8   There have been two issues regarding the detailed operation of meetings which need attention. The first concerns the scope of the minutes taken at panel and commission meetings. There have been two occasions when minutes have been challenged by panel members on the basis that a contribution made by them (in one case a motion which failed to get a seconder) had not been recorded. The second concerns the tendency of one or two members who are not formally designated substitutes to attend panels (as is their right) but then to

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[4] See Recommendation 10 of the scrutiny review of overview and scrutiny at LB Merton, March 2006

operate as though they were de facto substitute members. Ways of dealing with these problems are set out in 4.15 below.

4.9   Recommendation 19 set out the principle of depoliticising (as far as possible) the operation of scrutiny meetings, and encouraged the abandonment of the tradition of party group meetings prior to the meetings of commission or panels[5]. This recommendation was not followed in relation to the budget meetings of the panels and commission, although there has been no evidence (or declarations) that group whips had been applied. Budget-setting is an intrinsically political process, so it is not surprising that party groups have wished to continue to meet beforehand in this case. However for other (non budget scrutiny related) meetings, the discontinuation of prior group meetings should continue to be encouraged. The recommendation for selective informal sessions prior to a panel meeting at which members would prepare a strategy of questioning for an important witness (e.g. a cabinet member over an apparent performance failure) has not yet been implemented. Given its potential value, it should be given further consideration.

4.10 The practice whereby chairs summarise the conclusions reached at each meeting[6] is a helpful innovation. It could with benefit be augmented by a debriefing session (a device successfully introduced by Salford MBC, amongst others) at the end of the meeting, whereby panel members discussed the experience of the meeting, highlighting what had worked well and 'added value' and what had not. This type of learning device could be particularly valuable for

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[5] See Recommendation 19 of the scrutiny review of overview and scrutiny at LB Merton, March 2006
[6] See Recommendation 29 of the scrutiny review of overview and scrutiny at LB Merton, March 2006

new members, to gain a sense of the differences between 'effective' and 'ineffective' scrutiny.

Resources and support

4.11 The value – indeed necessity – of having a dedicated Scrutiny Team was recognised in the April 2006 report, and the work of the unit is certainly highly valued by members and senior management. Its functions have been clarified and strengthened following the implementation of the report[7]. However, as the report recognises, overview and scrutiny cannot work effectively unless it is also supported by mainstream officers. There have been two very encouraging developments in this respect. First, the instigation of internal courses to help middle managers understand the role and functions of overview and scrutiny is an imaginative initiative which has achieved positive feedback and from the adoption of which other authorities would benefit. It has the potential to generate a major shift in officer culture. Secondly, the adoption of the recommendation regarding link officers[8] has already strengthened the capacity of the Scrutiny Team to deliver relevant advice to the commission and panels, and has the scope to do so to a greater extent when the 'link officer' role is better understood. This innovation too will help change the culture and move overview and scrutiny towards a 'parity of esteem' with the cabinet within LB Merton, which would be a major achievement, given experience elsewhere.

4.12 The establishment of a fund to support scrutiny activities[9] is an important potential contribution to the effectiveness of the function. Ways need to be found of using it so that its value can actually be demonstrated.

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[7] See Recommendation 5 of the scrutiny review of overview and scrutiny at LB Merton, March 2006
[8] As note 7.
[9] As note 7.

4.13 The development and training of members of scrutiny panels remains a priority[10], particularly as there are so many new members, following the 2006 election. This priority is also relevant to chairs and vice-chairs. Their role and behaviour is crucial to ensuring that meetings are properly handled and make the best use of time. The capacity to deal with irrelevant contributions from members and to ensure that questioning of internal and external witnesses is carried out in a civilised (although, also where appropriate, a challenging) way is of particular importance. To this end, the recommendation regarding job descriptions for chairs and vice-chairs should be taken forward, and a member development programme (including specific opportunities aimed at chairs and vice-chairs) given priority.

4.14 There is an issue about whether the current size of the Scrutiny Team is adequate to deal with the extension of its responsibilities, both in relation to the future plans of the council, and the likely implications of the impending Local Government Act. This issue is discussed further in the 'Conclusions' section.

4.15 Following this analysis of the extent to which the April 2006 report recommendations have been successfully implemented, and also the identification of a few other issues which require attention, this section concludes with a set of suggestions for further improving LB Merton's overview and scrutiny infrastructure. It should be emphasised that these suggestions should be seen as 'fine tuning' adjustments to the robust and 'fit-for-purpose' infrastructure which now exists.

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[10] As note 7.

Overview and Scrutiny in LB Merton – Suggestions for further improvements.

(1)   As previously recommended by the Scrutiny Review, guidelines for reports submitted to scrutiny meetings should be flexible and not require recommendations from officers to be included.

(2)   Members who wish to address a scrutiny panel, who are not acting officially as substitutes, should do so only with the permission of the chair and should be treated as other witnesses would (i.e. called to give evidence and answer questions, but not otherwise to take part in the formal proceedings of the meeting).

(3)   Minutes of scrutiny panel and commission meetings should provide brief summaries of discussion and conclusions with only exceptionally reference to individual contributions (e.g. mover and seconder of resolutions).

(4)   If a more detailed report of a discussion is required as part of a substantive scrutiny review, this should be the responsibility of the Scrutiny Team.

(5)   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 issue of concern.

(6)   Panels should be encouraged to include from time to time 'debriefing' sessions at the end of a meeting, the intention of which should be to review the extent to which the panel succeeded in adding value in relation to the various agenda items.

(7)   The drafting of job descriptions for chairs and vice chairs of scrutiny panels and the commission should be considered as a way of clarifying roles, responsibilities and expectations.

(8)   Priority should be given to a training and development programme for all scrutiny members, and (separately) for the chairs and vice-chairs of the panels and commission.

(9) A set of guidelines should be introduced covering the conduct of scrutiny meetings, focussing on issues such as facilitating the contribution of witnesses, and appropriate styles of questioning.

(10) The use of one day seminar-type occasions should be encouraged as a vehicle for a short, sharp scrutiny of issues which, although important, does not merit the setting up of a 'task-and-finish' group.

(11) Annual meetings between the cabinet and the 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).

(12) The members' workshop on performance monitoring should be repeated as a way of stimulating greater member interest in this topic.

(13) The co-option of non council members (voluntary sector organisations, public sector organisations, representatives of local communities or interest groups) on to task-and-finish groups should be encouraged as a way of widening the range of inputs to in-depth studies.

(14) Attempts to identify topics of public concern which are appropriate for in-depth scrutiny reviews should be intensified.

(15) Once the programme of activities for overview and scrutiny over the next 2-3 years has been agreed, a review should be undertaken of the extent to which a strengthened capacity for the Scrutiny Team is required (see Section 5).

Section 5: Conclusions: The future of overview and scrutiny in LB Merton

5.1 The profile of overview and scrutiny is likely to change within the next year or so. The White Paper 'Strong and prosperous communities' expresses a wish to see this function strengthened, and proposes an enhanced power of **external**

scrutiny, together with an advocacy of **locality-based** scrutiny, linked to a desire to strengthen the role of front-line councillors as local representatives.

- ❖ Overview and scrutiny committees can currently carry out investigations into any issue of importance to the local area. Our proposals will allow committees to consider specific matters regarding the action of local public service providers and the action of key public bodies operating in a local authority area. (DCLG 2006 p58).

- ❖ To ensure that elected members are in a stronger position to support citizens and communities we will require those public service providers covered by the 'duty to co-operate'[11] either to appear before the committee or provide information to the committee within 20 working days, insofar as their actions relate to functions or service delivery connected with the authority (DCLG 2006 p58).

- ❖ …We will work with local authorities to develop new best practice guidance on overview and scrutiny … this will encourage local authorities to develop further the concept of scrutiny focused on particular areas, communities or neighbourhoods … we will encourage authorities to set up 'area' overview and scrutiny committees comprising local councillors and … other members of the community (DCLG 2006 p59).

5.2   In LB Merton, there has already been a move towards a strengthened external scrutiny role, in the agreement that the council should scrutinise the performance of the Local Strategic Partnership (LSP), particularly in relation to its Local Area Agreement (LAA) responsibilities. The development of a policy on neighbourhood governance is also in progress (via a scrutiny task group)

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[11] There are 21 named partner bodies (see DCLG 2006 p100)

which is likely to result in some form of strengthened neighbourhood-based arrangements, which will provide a structural base for 'local scrutiny' and a possible source of 'community call to action' (a mechanism which LB Merton intends to pilot in the near future).

5.3   Given the progress it has made over the past year or so, the council is well-placed to progress these two initiatives. In both cases, there is a good deal of development work implied to ensure that the structures and processes are appropriate, and then the challenge of operating the new arrangements. These new responsibilities will require enhanced dedicated resources for scrutiny. The Scrutiny Team is already working to full capacity and it is not feasible that, with its present establishment, it could cope with moves to LSP and locality-based scrutiny. In both cases, scrutiny will only prove effective if it is well-researched and evidence-based. It is outside the scope of this report to explore staffing implications in more detail; but the case for a review of scrutiny resources is clearly implied by the extension of scrutiny responsibilities.

Prof. Steve Leach
Professor of Local Government
De Montfort University

March 2007

Evidence considered

Interviews with:

- Group leaders

- Overview and Scrutiny Chairs and Vice-chairs

- Chief Executive

- Assistant Chief Executive

- Scrutiny Manager and Scrutiny Officers

- Monitoring Officer and Legal Services Officers

- Sutton & Merton PCT representative

Observation of the Regeneration & the Public Realm Scrutiny Panel

Documentary evidence:

- Scrutiny Handbook

- Overview and Scrutiny Annual Report 2005/06

- Review of Scrutiny report (and volume of evidence)

- Review of Scrutiny action plan

- Overview and Scrutiny Commission and Panel work programmes 2006/07

- Overview and scrutiny webpages (www.merton.gov.uk/scrutiny)

- Update for Councillors (Issues 1 and 2)

- Scrutiny member development programme and attendance record

- Details of 'Help, I've been called to scrutiny! What do I do now?' training for managers

- Guide to overview and scrutiny – leaflet for the public

- Overview and scrutiny self-assessment for the Council's corporate assessment