

Cllr Peter Southgate
London Borough of Merton
Civic Centre
London Road
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15 August 2019

Dear Cllr Southgate,

FINDINGS OF CFPS SCRUTINY IMPROVEMENT REVIEW

Thank you for inviting the Centre for Public Scrutiny to carry out an evaluation of Merton's scrutiny function. Our methodology for these reviews is still in development, as is our method for communicating findings. At the moment, our approach is to draft a letter like this one, containing key findings and evidence and suggesting areas in which actions might be developed.

The process for gathering evidence to support this review principally took place over June. I spoke to around 50 people (councillors and officers) and reviewed a range of documents produced by the council. I also watched clips of a number of scrutiny meetings, hosted online by Merton.tv.

1. Your objectives

Overall my work has looked at:

- **Culture.** The mindset and mentality underpinning the operation of the overview and scrutiny process. This will involve a focus on the Council's corporate approach to scrutiny;
- **Information.** How information is prepared, shared, accessed and used in the service of the scrutiny function;
- **Impact.** Ways to ensure that scrutiny is effective, that it makes a tangible difference to the lives of local people.

In doing so, I have looked at four main areas of scrutiny practice. These are:

- Organisational commitment and clarity of purpose;
- Members leading and fostering good relationships;
- Prioritising work and using evidence well;
- Having an impact.

Before I started I was advised of particular areas where Merton wanted us to focus. These were:

- Prioritisation and focus in the work programme (informed by a clear, well articulated role for scrutiny overall). I looked at the extent to which current arrangements result in a work programme which may be too broad, and at call-in arrangements;
- Outcomes from the scrutiny process – how these can be assessed and evaluated throughout the process;
- The way in which information is used by scrutiny councillors – how and where information can be accessed and how it can be used to triangulate, and form an accurate picture for councillors as to how services are delivered on the ground.

The questions I asked interviewees were all centred on these issues.

2. Overall

- Scrutiny in Merton is effective – particularly in task and finish groups;
- The impact of scrutiny overall is positive, significant and sustained;
- There is however a sense of disengagement from some members, based on perceptions of scrutiny’s independence and effectiveness. This has influenced some behaviour in committee;
- Work is needed to better plan and deliver work carried out in committee;
- A more directed focus for scrutiny – for example, on the “social fabric” of the borough – could help to manage these issues, particularly in the context of expected reduced officer resource for scrutiny in the near future.

Merton’s scrutiny function carries out work that makes a difference and has an impact. Generally it works well, and its work is particularly respected at senior levels in the organisation. However, the outcomes of the recent scrutiny members’ survey do raise a cause for concern. While the problems that have emerged do not yet risk the continued effectiveness of the function, they could do in the medium term, and action is required in order to arrest this risk.

There is a mismatch between the experiences of a range of members involved in scrutiny, and between officers and partners engaged in the function at all levels. For some, scrutiny is self-evidently productive and positive. For others, there is a sense of real disengagement, and with that a tendency to seek to use scrutiny for more overtly political purposes in a way that leads to the creation of tension. People have talked, expressed and articulated their views where they feel this way, but the organisation as a whole does not yet seem to have listened to and acted on these concerns.

The officer team supporting the scrutiny function is universally highly regarded; unprompted comments were made to us about this by the majority of interviewees and the point also comes through in documentary evidence. I know that there is an expectation that the scrutiny function will next year lose 0.5 FTE staff member. Experience suggests that these kinds of changes in resourcing need to be planned for well in advance; I have focused my findings to take account of this.

My work has not made any comments or suggestions on Merton’s scrutiny committee structure. Doing so at this point would I think be counterproductive. There is no obvious need to change the structure of committees or to change those meetings’ frequency. However, after putting in place some of the changes we suggest, councillors may feel that changes to structure provide a means of embedding those changes. If so, I think that May or June 2020

provides the earliest opportunity to have a serious discussion on whether that is in fact necessary.

3. Organisational commitment and clarity of purpose

I looked for evidence that scrutiny has the kind of backing that it needs from the top of the organisation to work properly.

The leadership is vocally positive about scrutiny. Senior officers are able to proactively point to a number of instances where scrutiny has made a positive difference. Some members feel that the administration attempts to “control” and “direct” scrutiny. I have found no evidence of this although I comment on the issue as evidence of some member disengagement in the section 4.1 below.

Scrutiny’s overall role is broadly expressed. As is the case in most councils, the role is said to be to hold the executive to account, to act as a critical friend, to provide support on policy development, and so on. These are all important aspects of scrutiny’s work but recent CfPS research suggests a need for more clarity and focus in how scrutiny’s role is described. This is about developing a shared understanding within and beyond the understanding of the specific niche that scrutiny will fill; a role not carried out by others; a particular and unique way for scrutiny to add value.

I explored this issue with a number of interviewees and through these conversations have developed a suggested approach. This has also been informed by a sense that scrutiny, while it is good at sniffing out “hot topics”, is less effective at identifying and tackling the “slow burn” issues which may fall below others’ radar as well. I have picked these issues up in more depth in section 6 below.

This approach is that **scrutiny should focus its attention on those cross-cutting issues which affect the social fabric of the borough.**

To explain, this means:

- Matters affecting the way that local people work and live together in the borough;
- Matters relating to the above for which the council, its partners and other agencies share responsibility – ie, where cross-cutting responsibilities are particularly complex;
- Matters where risks exist in relation to the above – financial or otherwise.

Such a focus would involve **scrutiny reflecting on the council’s responsibilities with relation to the public sector equality duty and its duties to deliver social value.**

Such an approach would by definition be outward looking and would allow scrutiny to build on previous good practice in relation to engagement with issues that are important to local people. It also presents a necessary challenge to scrutiny to strength and deepen engagement with partner organisations, a subject we discuss in more depth below.

This is of course but one way to frame a more directed focus for scrutiny. Other approaches are possible. We at CfPS have supported councils to develop a focus on risk, for example, or on understanding user need.

This kind of approach has to be **underpinned by a rigorous approach to the use and analysis of information.** Without it, members will not have the assurance that the issues on which they are focusing are the right ones. I explain more about my thoughts on information access and use in the sections below.

4. Members leading and fostering good relationships

I looked for evidence that scrutiny members feel a sense of ownership of the scrutiny function, built on a sense of organisational commitment, and that they take the lead in directing scrutiny work towards those areas where members, through their unique perspective as elected representatives, add the most value.

4.1 Member engagement

The council conducts a regular members' survey to test satisfaction with scrutiny overall. Few councils do this; the scrutiny function's ability to be reflective and to challenge its performance in this way should be commended. In this case, this survey work has revealed a growing sense of disengagement from the scrutiny process. In my evidence gathering I noted that this is felt particularly by newer members, especially opposition councillors. However, this is not to say that disengagement derives from a lack of understanding of scrutiny or a need for opposition councillors to be dissatisfied for political reasons.

There is an argument that this disengagement may be cyclical in nature – that is, that it reflects the place in the electoral cycle in which Merton finds itself. There may be some truth to this (experience from elsewhere demonstrates that relative engagement in scrutiny by councillors can have a rhythm to it, and Merton can point to longitudinal evidence from previous surveys which backs this point up). However, action to address the issue is still necessary.

The disengagement is caused by a number of perceptions, namely that:

- “Scrutiny is used politically by the administration, and the administration exerts control over scrutiny’s work”. This is a view held strongly by some councillors. The senior leadership of the council strongly express their support for and understanding of scrutiny’s independence from the executive. The open nature of the work programming process gives confidence that such control is not exerted when it comes to the choice of what scrutiny does and does not look at. However, it is less easy to say that scrutiny councillors in the majority group do need feel a pressure to show loyalty to the administration and its priorities in committee and in other spaces. If some councillors do feel this pressure, however inadvertently it may be being exerted (eg within the majority Group) **the administration needs to take steps to make clear its absolute commitment to scrutiny’s independence, and to act on that commitment.** I think that **peer to peer mentoring** within the majority group will help newer councillors, who may feel this pressure, to be paired with more experienced councillors who feel more comfortable asking challenging questions;
- “Scrutiny is used politically by the opposition”. An opposition councillor said to us, “If you can’t make a difference, you might as well make a point”, indicating that such activity is itself borne of a frustration with scrutiny. There is obviously the risk that this becomes a vicious circle – more disengagement leading to more inappropriate party political activity at committee. I think that the suggestions I make below on how work should be organised and directed at committee will help to deal with this;
- “Scrutiny’s work is superficial and ineffective”. I deal with this assertion in the section below, but it is worth emphasising again that scrutiny’s impact through task and finish work is well documented. Experience of committee work, however, could have been responsible for these viewpoints.

4.2 Member leadership

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Scrutiny's success is dependent on the right members, with the right capabilities and attributes, leading and managing the scrutiny function. This is dealt with in the new statutory scrutiny guidance.

Current chairs have varying levels of confidence in being able to lead and own the scrutiny function. The process for selecting chairs, as in many councils, rests in the hands of the administration. Naturally this will contribute to disengagement from some councillors, particularly opposition councillors. Some said to me that they felt the way that scrutiny was managed made it too "comfortable" for the administration.

The opportunity exists, alongside some of the other changes suggested, to **open out leadership positions to a wider range of members, including newer councillors**. Some of these leadership positions may be the subject specific "rapporteur" roles identified in section 5, below, but I also think that formal chairing positions would benefit from drawing in opposition members.

4.3 Relationships with stakeholders

Within the council, relationships are positive, as I have already noted. In relation to partners, however, things may not be wholly positive. Partners are willing to engage but some have been frustrated by their experiences at scrutiny. What feels like an overly combative and antagonistic experience can be compounded by not having a clear sense of what scrutiny members are attempting to achieve. In some instances partners have taken to adopting a defensive posture; scrutiny is something to be got through rather than a useful and positive part of working alongside the council. Relations with some partners seem to have improved with time but we do not get a sense that partners' frustrations with some of their experiences in scrutiny have been understood and acted on by scrutiny members. We pick up on some of these points in the section below on "behaviours in committee".

This having been said, **partners also need to understand that robust, public scrutiny is a necessary part of doing business with a local authority**.

As ever, opportunities exist to improve these relationships. In part, the kind of **reframing of elements of scrutiny's work which engages with partners** may help to achieve this, along the lines of the "social fabric" focus that we suggested above. Scrutiny work which is framed as "scrutiny of partner x" will always feel more antagonistic than "scrutiny of issue y, in which partner x is involved". The former often feels more institutional, less focused on local people's ultimate needs and is inevitably more adversarial than the latter.

It may, furthermore, be useful for scrutiny to **re-engage with partners to reset mutual expectations of their engagement with scrutiny** and scrutiny's powers in relation to their work. Partners can be divided into a number of categories:

- Providers; organisations with which the council contracts to deliver services. Scrutiny here may be framed around agreed performance standards and has the potential to feel combative if handled poorly;
- Advocates; organisations which represent subsets of the local population or groups of people or organisations in the borough;
- Formal partners; other institutions with whom the council must work but which are independent. This might include the NHS (locally and across London), the police (and other community safety partners), the London Mayor, TfL, the South London Waste Partnership, and others. Some of these relationships are bound up in statute and indeed

5. Prioritising work and using evidence well

5.1 Overall

At a meeting of the Overview and Scrutiny Committee in July, your Chief Executive said, “The only thing I would caution is that in my experience, scrutiny has far more work to do than time to do it, and an agenda item with just open-ended questions and responses becomes discursive”. I would agree with this, and think that the executive can do more to support scrutiny councillors (and scrutiny officers) to make an informed choice on what to look at, and how.

There is robust guidance and support available at the moment to assist members in coming to reasoned, informed judgements about the work programme. This is supported by a system of work programming workshops which aim to put members in the driving seat when it comes to topic prioritisation and selection. The overall high quality of scrutiny’s task and finish work is evidence that this part of the system is working well. However, scrutiny work in committee does not benefit from the same focus. One interviewee described scrutiny work at committee as “lilypadding”, with members jumping from one topic to another without delving beneath the surface.

Much of this rests on members’ effective access to and use of information. We have not identified significant issues with members’ fundamental ability to get hold of information they need, but the method and format chosen to share that information may need reflection. This is about the executive (officers and members) committing to different approaches, and about scrutiny councillors providing clarity around their objectives and expectations when information is requested.

The statutory scrutiny guidance suggests that councils develop information digests to manage the sharing of information otherwise than in formal committee meetings.

Suggested actions here may relate to:

- **The establishment, with members, of a set of contents for an information digest.** This could form some of the information currently regularly sent to committee to provide updates – thereby freeing up that space for more substantive work;
- **Identification of issues where officers feel the need to update members face to face, and for service departments to organise such updates either for all members, or for the provision of such updates at political Group meetings** (again, reducing burdens and expectations on scrutiny);
- **Giving individual members of committees responsibility for developing specialist subject knowledge on certain areas under the committee’s terms of reference.** Such members (known in some councils as “rapporteurs”) would take responsibility, in committee and in task and finish groups, in leading scrutiny’s work relating to that particular topic. This would provide a better sense of ownership and responsibility, and a career path within scrutiny for newer councillors aspiring to chairing positions.

5.2 Task and finish work

Task and finish work is generally of a high quality. I was pointed to a range of high impact task and finish work which included:

- Care leaver transition (and wider children's services issues relating to safeguarding);
- Parking outside schools;
- Management of reconfiguration issues relating to St Helier;
- Post office closures.

Task and finish work benefits from being well scoped and well supported.

On this point, I see no reason to make changes to what is clearly a winning formula. Merton should look to its approach to task and finish working and see how elements of it can be transposed to operations in committee which, as I note below, are more variable.

5.3 In committee

Challenges with scrutiny's work in committee – making committee sessions count – is a perennial issue in many councils. Merton can make improvements here; I think that this is one of the primary means of re-engaging those members who may have become disenchanted with scrutiny in recent months.

As part of our work we observed recent meetings on Merton.tv and reviewed agendas and reports for all scrutiny meetings in the past twelve months. Most committee agendas had between 2 and 4 substantive items and one or two additional "business" items. For the majority of the substantive items there was not a clearly articulated outcome from scrutiny's consideration of the outcome. The act of scrutiny itself – forensic questioning of officers, councillors and others in a public space – has an intrinsic value. But it remains the case that scrutiny will need to demonstrate how the act of questioning, and scrutiny in public, leads to change.

The amount of business means that meetings can be lengthy, and while observation demonstrates that members by and large stay engaged throughout, heavy agendas like this are not necessarily conducive to effective work.

Committee discussion looks and feels traditional; officers provide (sometimes lengthy) presentations and updates which are followed up by questions from councillors. The quality of questioning varies; in some instances forensic, but it is often more general and exploratory and sometimes superficial. Some councillors feel that scrutiny looks and feels too "comfortable" in its approach; I note elsewhere that scrutiny in committee does have the ability to be forensic.

There are a couple of clear examples in the past year – reviews in committee of podiatry and of parking charges in particular – that demonstrates that having impact through such an approach is possible. Success here is likely to relate to how particular subjects are framed and how the perspectives of others are drawn into the discussions. It is notable that such engagement looks and feel more like traditional task and finish working.

Part of this rests on the quality and consistency of information that committees receive. Officers writing scrutiny reports and preparing other information for committee need to better understand members' motivations and objectives in considering particular items. In some cases (in respect of performance management information for example) it may be more

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appropriate for information to be provided to members through more informal means. Members can then use information to escalate particular issues to committee for more detailed discussion. The need for this more streamlined approach is we think particularly needed in respect of work relating to the council budget.

Suggested actions may relate to:

- **Framing committee items in the right way.** At the moment substantive discussions are framed as updates from officers, executive members or partners; this may lead to a lack of focus. Members could challenge themselves to express beforehand exactly what outcomes they hope to deliver from considering particular topics, with officer reports and discussion focused on those issues;
- **A clearer route from topic selection to the agreement of substantive recommendations in committee.** For a committee to have the confidence that it is looking not only at the right issues, but the right issues in the right way, a spirit of reflection and self-criticism is needed to ensure that topics chosen will really make a difference – notwithstanding the temptation to look at issues because they are interesting;
- Developing better methods for information sharing, and for the use of information to better plan agendas (as discussed above in section 5.1);
- **The composition of reports to committee themselves.** Regular use of executive summaries by report writers, the more consistent use of plain English and plain maths (in respect of budget scrutiny), and more concise explanation of key issues in a way that aligns to a clearer sense of members’ objectives. With this in place it may not be necessary for officers to give presentations at committee (although we note, in observation, that lengthy officer presentations do not appear to be too much of a problem);
- **The number of substantive items on committee agendas.** More rigorous prioritisation (and dealing with “information” items differently) should lead to a situation where meetings will have no more than 1 or 2 substantive items;
- **The establishment of regular, informal, pre-meetings** between Chairs, Vice-Chairs and link officers from service departments to discuss forthcoming agendas and to clarify exactly how members expect such matters to be dealt with.

5.4 Behaviour in committee

Above we have noted issues around disengagement, and how this can evidence itself through poor behaviour at committee. We are concerned that some poor behaviours are being normalised. Members seem to justify poor behaviour, where it does occur, by assuming it is a natural part of the “realpolitik” of being on council.

Poor behaviour is not a prominent feature of scrutiny in Merton but I have seen some of it in observation and have been told about instances of it by interviewees. Inevitably different people’s understanding of “poor behaviour” will differ but generally it seems to evidence itself by occasional, performative, overtly party political, posturing and grandstanding in public meetings, occasional performatively antagonistic questioning of witnesses (including partners, as we have noted) and other behaviour which obstructs measured, reflective scrutiny.

The opportunity exists to reappraise such behaviours before they become widespread. It is positive that members to whom I spoke recognised the negative impact of these behaviours and also recognised that they needed to change. I think that some of the other measures

highlighted in this letter to tackle member disengagement and to clarify and focus scrutiny's role will help to lessen this problem but members should reflect on their own behaviour, and have the confidence to check the behaviour of their colleagues. **Chairs have an important role in modelling better and more constructive behaviour.**

6. Having an impact

I looked for evidence that scrutiny is able to demonstrate its tangible impact, that it has a consistent way of formulating and agreeing recommendations and that relationships with those outside the council in particular are such that partners can engage productively with recommendations when made.

Scrutiny has a clear and obvious impact. Many people were able to point to a range of recent pieces of work which resulted in real change. As I noted above this focused on task and finish work. I do know that some work in committee has also had an impact (investigations into podiatry services, for example), but work in committee in general is less effective, with no formal resolutions or recommendations following on from discussions.

It is worth stating that scrutiny's overall "hit rate" seems far higher than in other councils. I was particularly pleased to note how quickly and easy it was for senior officers to set out numerous examples of scrutiny which has positively and directly impacted on their work and the services they provide to local people.

The challenge lies in learning from what makes task and finish work successful in Merton, continuing those activities, and seeing what approaches can be applied to working in committee.

6.1 Hot topics and slow burn issues

As in many councils there is a tendency for scrutiny to focus its attempts to make an impact on hot topics – issues where there is likely to be particular local interest or contention.

Such issues are important – and it is right that scrutiny should seek to influence them. But looking at issues which already have a high profile, and not necessarily adopting a different perspective in doing so, risks duplication.

There is no evidence as things stand that scrutiny's choice of items for review overall is limiting its impact, but scrutiny might be able to add more unique character to what the council understands of a topic by approaching issues in a different way.

This is what the idea of focusing scrutiny on the "social fabric" of the borough is about. It provides a way to engage in big issues, but also provokes the council to review those less high profile matters which are nevertheless critically important to local people.

Slow burn issues differ from area to area so it is difficult to say exactly what they might be for Merton. Members will hopefully be able to identify persistent local issues which do not benefit from a coherent and consistent policy response. Scrutiny has reviewed matters relating to social care and children's services but looking at the wider determinants of risk in these areas, as a part of the borough's social fabric, might provide an opportunity to reframe such scrutiny to be more strategic.

6.2 Better managing committee work to secure impact

Issues relating to the borough's social fabric are likely to involve a range of different partners and stakeholders, and changing the format of some committee meetings to bring together

panels of witnesses – and the public – to discuss such issues could be a way to change the format and impact of work in committee.

Certainly, moving “task and finish” style ways of working into the committee environment could, in general, provide a way to make committee working more effective. In practice, this is likely to mean:

- **A limit of one or two substantive items per meeting;**
- **Using a pre-meeting** to scope such discussions in the same way a task and finish meeting might be scoped (with the officer report essentially being the scope for discussion);
- Even when more traditional discussion at committee is in prospect, the use of pre-meetings to set common objectives and possibly to reach consensus on questioning lines could be experimented with. Such measures could increase the resource commitment in supporting committees; as such some discretion is probably necessary.

I hope that you, other councillors and Merton’s officers find these thoughts useful as you review what actions you propose to take to further improve scrutiny. I look forward to continuing to work with you to clarify those actions. I note that it is planned to discuss these findings at a member meeting on 11 September alongside a draft action plan, and I look forward to feeding into that process.

Of course, I am happy to provide whatever further ongoing support you might require as those actions come to be implemented.

Yours sincerely,

Ed Hammond

Centre for Public Scrutiny