

LONDON BOROUGH OF WALTHAM FOREST

OVERVIEW AND SCRUTINY COMMISSION

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Report Title: Review of the Scrutiny Service

Report Author: Kris Malde
Interim Head of Scrutiny

Tele No: 020 8496 4721

Email:
kris.malde@walthamforest.gov.uk

Directorate: Chief Executives

Contact Officer: Kris Malde

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1. SUMMARY

- 1.1 This report summarises the findings of the review of the Scrutiny Service.
- 1.2 The review, and consequently the findings, have been split into two parts – an internal and external analysis. The findings of the internal analysis relate to the performance indicators for the Scrutiny Service that have been collated between July 2004 – December 2004. A summary of the findings is included at Appendix A. The results of the external analysis are presented as a report compiled by Professor Steve Leach at Appendix B.
- 1.3 The findings raise a number of issues and identify areas of weakness that need to be considered by Members and officers. As such, it is recommended that a working group be set up with a remit to consider the findings of the analysis and to make necessary recommendations to address the identified areas of weakness.
- 1.4 It is also recommended that the working group consist of Members and officers (from both Member Services (training) and Scrutiny).

2. BACKGROUND

- 2.1 On 12 October 2004, Members of the Overview and Scrutiny Commission agreed that a review of the Scrutiny Service be conducted. A report was submitted to the Commission that outlined the objectives of the review and the process that would be adopted to conduct it.

- 2.2 The process for the review has been split into two parts – an internal and an external analysis. The internal analysis has included the introduction and monitoring of performance indicators for the Scrutiny Unit. The results of this analysis indicate that some new systems need to be implemented to monitor and exceed the stated performance targets.
- 2.3 Professor Steve Leach of DeMontford University was commissioned to conduct the external analysis part of the review. This included analysis of questionnaires completed by Members (both executive and non-executive), witnesses and officers. Professor Leach observed a meeting of the Commission and an investigation Panel, interviewed key Members of the Commission and Scrutiny sub-committee's, and also facilitated an awayday with the assistance of Councillor Kim Humphreys, Chair of Overview and Scrutiny at Southwark Council. The findings of the external analysis are presented in a report at appendix B.
- 2.4 The results of the analysis, and as such the findings of the review, suggest that “the approach to Overview and Scrutiny in Waltham Forest exhibits some genuine strengths, but also some weaknesses” (Professor Steve Leach).
- 2.5 In light of this, the recommendation of this report requests that a working group be set up to address the identified areas of weakness of the Scrutiny process by formulating new strategies and working practices. The reason for setting up a working group is that Members may wish to have an input into issues such as selection of topics for scrutiny and policy development, the size and structure of the Commission, interaction between the Commission and Cabinet, and Member training. It is suggested that the working group should consist of a small number of Members, and include officers from the Scrutiny Unit and Member Services. The Member Services unit have agreed to form part of the working group.

3. RECOMMENDATION

- 3.1 A working group consisting of Members and officers from Member Services and Scrutiny be set up with a remit to consider the findings of the review and make necessary recommendations to address the identified areas of weakness in the Scrutiny Service. The working group should also work with Members Services to develop a scrutiny training strategy. The working group should report to the Commission within 3 months of its first meeting.

4. SOCIAL JUSTICE IMPLICATIONS

- 4.1 The review will address the extent that scrutiny in Waltham Forest contributes to the council's equality standards both in service delivery and in involving the public.

5. FINANCIAL IMPLICATIONS

- 5.1 Costs may arise from recommendations of the working group that relate to Member training and development.

6. LEGAL IMPLICATIONS

- 6.1 Any recommendations arising from the service review will need to ensure that the structure and operation of scrutiny in Waltham Forest continues to comply with the provisions of the Local Government Act 2000.

7. APPENDICES

- 7.1 Appendix A results of the internal analysis.
- 7.2 Appendix B report from Professor Steve Leach (external analysis).

Appendix A - Internal Analysis

Summary

The statistics contained in the table overleaf have been collated over a period of six months between July 2004 – December 2004.

These are the first set of performance targets for the Scrutiny Service and therefore members should note that:

- (i) there is no base line from which to compare current results;
- (ii) the targets are set for the end of the municipal year;
- (iii) the set targets may need to be amended at the end of the current municipal year.

Results

Performance Indicator 1 - The percentage of Scrutiny recommendations agreed by Cabinet

The statistics collated so far indicate that 91% of Scrutiny recommendations have been accepted by Cabinet. This figure is set to increase when consideration is given to the number of Scrutiny recommendations agreed by Cabinet between January 2005 and March 2005. This exceeds the Performance Indicator target of 80%.

Performance Indicator 2 - The percentage of Scrutiny recommendations implemented by Cabinet

The Cabinet does not track recommendations once they are agreed. We are currently having discussions with Officers from Democratic Services to set up a system which will monitor recommendations once agreed by Cabinet. Further to this, Scrutiny Panel recommendations now include a recommendation that the Panel will be reconvened after a certain period of time to make an assessment of the recommendations to ensure implementation.

Performance Indicator 3 - The percentage of Scrutiny Panel investigations that complete within the agreed timetable

All Panel investigations are completed within the agreed time scale. On occasions, the investigation plan, and therefore the time plan, has been amended to take account of new evidence or any other external factors beyond the control of the Panel.

Performance Indicator 4 - The percentage of non-executive Members involved in Panel investigations

The target of 50% is not being met. Currently, Members are contacted on an individual basis to join Panels. The system for recruiting members onto Panels may need to be revised.

Performance Indicator 5 - The percentage of Scrutiny recommendations to Cabinet that directly address equalities issues

Although the Scrutiny Service has not reached the Performance Indicator target, it is envisaged that the target of 20% will be met by the end of the municipal year. Further to this, the agreed recommendations from the Equalities Panel have not been included.

Performance Indicator 6 - Awareness of Scrutiny in the Community

This Indicator will be measured by the responses to questions included in the forthcoming Residents Survey.

Performance Indicator 7 - Take up of Scrutiny e-bulletin

The target of 200 subscribers is currently not being met. Consideration should be given to amending the target.

Performance Indicator 8 - No of visits to Scrutiny web-pages

The IT department is currently working on a programme to monitor the number of 'hits' to the Scrutiny web site.

Performance Indicator 9 - Attendance of the public at Scrutiny meetings and events

We envisage that the target of 100 attendees will be met by the end of the current municipal year.

Appendix B – External analysis

An Evaluation and an Agenda for Discussion

Report by Professor Steve Leach, De Montfort University

Introduction

- 1.1 This report was commissioned by Waltham Forest Council in November 2004, as a contribution to a Review of Scrutiny, instigated by the council in October 2004. The terms of reference are set out in an Appendix to this report. My contribution focuses on the following aspects of Scrutiny.
- ❖ an analysis of a survey* of members, officers and witnesses carried out in late 2004.
 - ❖ an analysis of a selection of key issues involved in the operation of scrutiny in the authority, in particular
 - ❖ the priorities for overview and scrutiny
 - (I.) the appropriateness of the existing structures
 - (II.) the processes for identifying topics for overview and scrutiny and carrying them
 - (III.) the effective involvement of councillors from all parties in overview and scrutiny
 - (IV.) links between the cabinet and the Scrutiny Commission
 - (V.) the effectiveness of ways of working
 - (VI.) training and development implications
- 1.2 In carrying out this commission, I drew on the following sources of information.
- ❖ Interviews with the chairs of the Scrutiny Commission and the four Scrutiny Committees, an opposition member, and officers from the Scrutiny Support Unit.
 - ❖ Observation of meetings of the Scrutiny Commission (8 December) and the Panel on Age Equality (7 December).
 - ❖ Discussions at a members workshop (January 10th) where my preliminary findings were presented and discussed.
 - ❖ Study of relevant documentation – including annual reports, panel reports and agendas.
- 1.3 In this report, I have also drawn on my work elsewhere, including two ODPM research projects (ODPM (2002), ODPM (2003), and reviews of overview and scrutiny I have undertaken over the past eighteen months or so in a range of different authorities (including Knowsley MBC, Torbay, Wolverhampton MBC, Telford and Wrekin and Cumbria CC). These reports have been used to provide a 'comparative perspective' on the situation in Waltham Forest and to inform the framing of recommendations.
- 1.4 The evidence I was able to gather in the time available was limited (although extremely helpful), which means that some of my analysis is based on impressions which would have taken more research to verify conclusively. I am confident, however, that I have been able to develop a reasonably accurate picture of the strengths and weaknesses in relation to the aspects of scrutiny investigated. The

* Note: I was not responsible for the design of the survey, which was carried out by the Scrutiny Support Unit.

report is not a blueprint nor a definitive statement. It should be seen as an informed outsider's perspective, designed to improve the operation of overview and scrutiny in Waltham Forest.

What is 'good scrutiny'?

- 2.1 What is good scrutiny? There are a number of possible criteria that have been developed. The ultimate 'effectiveness test' for scrutiny is whether the decisions (or policies or services) which result from its intervention are better than those which would have resulted had that intervention not taken place (and been accepted). However the problems of demonstrating that one decision (or policy or service) is better than another is fraught with difficulties, particularly in the short-term. What can be ascertained is the extent to which decisions are changed, services modified and policies introduced or amended **as a result** of the scrutiny process. There may also be significance in the extent to which such decisions etc are seriously reconsidered, even if not eventually changed (i.e. it could be argued that such decisions are better informed than they would otherwise have been).
- 2.2 Scrutiny can also be considered to be effective if it improves the **democratic process** of decision-making, for example by improving the quality of debate (new evidence, new arguments, greater openness, more external participation) or by initiating debate that would not otherwise have taken place. A further gain in process terms might be a greater degree of non-executive councillor motivation (and sense of empowerment) as a result of involvement in the scrutiny process. Thus scrutiny can be effective in both **outcome** terms (albeit indirectly assessed) and **process** terms or both.
- 2.3 The comments of the CPA reports on overview and scrutiny in a range of authorities imply the following criteria (from their perspective).
- (i) **Openness**, exemplified by the use of opposition chairs, a preparedness to challenge (policy development/performance monitoring) and accessibility of relevant information.
 - (ii) **Willingness to develop the scrutiny function** exemplified by a commitment to training, and dedicated professional officer support.
 - (iii) **Process attributes**, including appropriate use of call-in, outcome-focus, a citizen-centred approach and use of external expertise.
- 2.4 Thirdly the Centre for Public Scrutiny have identified four principles of good scrutiny (CfPs. Good Scrutiny Guide 2004). Good scrutiny should
- ❖ provide critical friend challenge to executives as well as external authorities and agencies (holding to account)
 - ❖ reflect the voice and concerns of the public and its communities (engaging the public as active citizens etc)
 - ❖ take the lead and own the scrutiny process on behalf of the public (links here to community leadership and effective representation)
 - ❖ make an impact on the delivery of public services (performance/quality assurance)
- 2.5 The implications of these various criteria are that
- (i) Scrutiny should be challenging in the way it holds the executive to account.
 - (ii) It should contribute to problem-solving and service improvement.

- (iii) It should incorporate a high level of stakeholder and public engagement.
- (iv) It should focus on longer-term strategic issues, in alignment with the council's priorities.
- (v) It should investigate, where appropriate, issues of public concern, even where the council is not the lead authority in dealing with them.

In meeting these criteria, overview and scrutiny faces a difficult 'balancing act' between on the one hand 'holding the executive to account' and on the other 'supporting it in its work' – the 'critical friend' dilemma.

2.6 Previous work on overview and scrutiny has identified five conditions which have to be met if the function is to be effective. These are as follows:

- ❖ An **executive that is responsive to** the work of overview and scrutiny.
- ❖ The preparedness of **all parties to work together** on overview and scrutiny committees.
- ❖ The existence of **effective scrutiny support**, both in the form of a dedicated unit, and from the senior officer structure as a whole.
- ❖ An **effective mode of operation** within overview and scrutiny committees, including agendas, venues and ways of working.
- ❖ A **sense of ownership** on the part of overview and scrutiny committee members, linked to an understanding of the potential of the function and an appropriate skills-base to carry it out effectively.

Survey results

3.1 What do the results of the survey* tell us about the effectiveness of overview and scrutiny in Waltham Forest. They are discussed below under three headings.

3.2 Officers and external witnesses

- ❖ External witnesses generally positive about their experience of scrutiny and the outcomes.
- ❖ Officers generally satisfied with support and feedback from Scrutiny Unit, with a few exceptions.
- ❖ Main concerns of those not satisfied
 - type and relevance of questions asked
 - manner in which proceedings were conducted
 - lack of understanding of scrutiny and process and procedures
 - 'chaotic' nature of Commission meeting
 - too much emphasis on scrutinising officers (rather than cabinet members)

3.3 The general conclusion that can be drawn from these results (and from three individual comments made on the forms), is that whilst most officers who have been called to give evidence or present reports to the Scrutiny Commission or a Scrutiny Committee do not experience problems in doing so, a minority have found the experience confusing or (in one case) unsettling. It is important that officers go into a scrutiny situation with a clear understanding of what is expected of them.

* The questionnaire survey was completed by 10 members of the Scrutiny Commission and Committees, 5 cabinet members, 15 officers, and 6 external witnesses.

3.4 Cabinet members

Responses can be summarised as follows:

- ❖ General satisfaction with treatment at Scrutiny meetings (one exception)
- ❖ Scrutiny seen as very (or moderately) useful to executive
- ❖ Varied views about contribution of Scrutiny to policy development
- ❖ Varied views about quality of recommendations from Scrutiny
- ❖ A range of specific criticisms
 - Lack of focus of panels
 - Lack of selectivity re cabinet decisions
 - Questions and discussion not always relevant
 - Tortuous process for formulating recommendations

3.5 The conclusion that can be drawn from the responses (and individual comments) is that whereas cabinet members are reasonably positive about the contributions which overview and scrutiny are making to the cabinet's work, there are one or two indications of frustration. For example:

"meetings have lacked focus or only focused on one aspect of a more complex problem. Some questioning and discussion has not been relevant. The process for formulating recommendations is absolutely tortuous and needs to be reconsidered".

3.6 Non-executive members

Responses can be summarised as follows:

- ❖ Satisfaction with support from officers, particularly the Scrutiny Unit.
- ❖ Mixed views about level of public involvement (50% dissatisfied or very dissatisfied)
- ❖ Dissatisfaction with level of media interest (80%)
- ❖ Generally positive view of Scrutiny's contribution to decision-making (80%)
- ❖ Divided views about responsiveness of Cabinet to Scrutiny recommendations
- ❖ 35% do not feel Scrutiny recommendations have made a difference to residents
- ❖ Divided views about contribution of Scrutiny to policy development
- ❖ Divided views about adequacy of training

3.7 What is apparent here is the variety of responses to the work of overview and scrutiny on the part of those directly involved. Whilst many of the comments identify positive value in the work of the Commission and its committees, others are much more critical, as exemplified below:

"it appears to me that scrutiny is still seen as very much the 'junior partner' when considered next to the cabinet".

"cabinet appear to make decisions before Scrutiny discusses the issue. Any recommendations from Scrutiny seem to be ignored or taken up only in part".

"cabinet only agree Scrutiny recommendations that coincide with what they have already decided to do".

Review of Strengths and Weaknesses

4.1 There is a general perception that overview and scrutiny has improved steadily over the past year or so, a view confirmed most recently by the CPA self-assessment (September 2004) and the CPA report itself (December 2004). It is not possible for me to judge whether this perception matches the reality, but what is clear from my analysis is that, like most authorities the approach to overview and scrutiny in Waltham Forest exhibits some genuine strengths, but also some weaknesses.

4.2 Strengths of overview and scrutiny in Waltham Forest

A summary of the main strengths are set out below:

- ❖ There is a degree of **receptiveness on the part of the cabinet** to the work of overview and scrutiny. There have been several examples of the cabinet accepting the recommendations of reports from overview and scrutiny, and a recognition (not always implemented) that a detailed reasoned response to recommendations should be provided, even where they are not accepted.
- ❖ The authority has recognised the **value of 'pre-decision' scrutiny**. The Overview and Scrutiny Commission and its sub-committees have used the Borough's forward plan to identify decisions that will be made by cabinet in the future, and, on a selective basis, have discussed and made recommendations to cabinet on such decisions (although there is an issue about the way this practice appears to preclude call-in).
- ❖ The overview and scrutiny process is supported by a **strong and well-organised scrutiny support unit**, whose contributions are widely valued by the Commission and Sub-Committee members.
- ❖ There is a recognition of the **important potential contribution of overview and scrutiny** to the Council's **recovery plan**, particularly with regard to the establishment of the Improvement and Performance Scrutiny panel and its role in monitoring recovery targets. In general the strengthened need for overview and scrutiny to work with the cabinet for the benefit of the authority as a whole, following a disappointing CPA rating, has been widely recognised.
- ❖ There is a growing recognition of the **value of 'Task and Finish' groups** in undertaking in-depth pieces of policy development or policy review work. These groups have motivated those who have been involved in them and produced some high quality pieces of work. In particular the following features have proved advantageous
 - the careful scoping of the projects concerned
 - the use of outside witnesses
 - the distinctive formats of the final reports
- ❖ These reports have also increasingly sought the views of residents, reflecting a growing recognition of the potential role of overview and scrutiny in **highlighting and responding to issues of public concern**.
- ❖ **Agenda planning has improved**, with a recognition on the part of the Commission and the sub-committees of the importance of the principle of **selectivity**. Agendas have (with some exceptions) become less cluttered and more focused.
- ❖ There have been some examples of **imaginative approaches** to the process of overview and scrutiny, for example the decision to hold meetings of the

Education Committee in different schools, the choice reflecting the relevance of a key agenda item to that school.

4.4 All these practices reflect the 'good practice' guidance emerging from recent reports by the ODPM, the Local Government Information Unit and the Centre for Public Scrutiny. They should be retained and, where appropriate, further enhanced in Waltham Forest.

4.5 Weaknesses of Overview and Scrutiny in LB Waltham Forest

Set out below are the summary of the main weaknesses of overview and scrutiny in Waltham Forest:

- ❖ There remains a **lack of clarity and consensus** about the **key priorities of the overview and scrutiny function**. Different chairs have different views and operate in different ways.
- ❖ There is a **lack of clarity in the structures** for Overview and Scrutiny which are sometimes causing confusion and have the potential to do so further. The key issue is the relationship between the Scrutiny Commission and four sub-committees (including Improvement and Performance Monitoring) which are attached to it. Although designated sub-committees, these bodies behave in a more independent way than their title implies. This may be entirely appropriate – but it needs to be clarified.
- ❖ The **Overview Commission is too large in size** to move away (where it is appropriate to do so) from the operational traditions of the pre-2000 Act service committees. It's co-ordination role is weakened by the fact that the chairs of the sub-committees are not systematically included in its membership.
- ❖ **The agendas of the Scrutiny Commission** require some **re-assessment**. The volume of paper does not aid the effective operation of the Commission. The inclusion of the minutes of the various sub-committees is of doubtful value. The need for monthly meetings is not readily apparent.
- ❖ The **lack of continuity in those holding the chairs** of the Commission and the various sub-committees does not aid the effectiveness of the overview and scrutiny process. Whilst the need for a distributive formula for chairs in a hung authority is acknowledged, there are alternatives to the current pattern of regular upheavals of personnel.
- ❖ **Not enough use** appears to be made (with few exceptions) of the opportunity for **informal 'pre-meeting'** meetings, particularly where a high profile external figure is to be questioned. In this context the presence of the Borough Police Commander at the Scrutiny Commission meeting on December 8th was something of a missed opportunity. (see 5.22 below)
- ❖ There is a **little underlying rationale for the selection of topics appropriate for in-depth treatment** by 'task and finish groups'. Given the acknowledgement that the authority has the capacity to operate only two such groups at any one time, it is vital that the best use be made of this capacity. The list of recent topics, although an interesting mixture, is diverse and unstructured.
- ❖ There is **little structured interaction between overview and scrutiny and the cabinet** (although informal interaction between key figures clearly does take place). The cabinet currently plays little role in suggesting topics for in-depth scrutiny, a capacity which would have benefits.

4.6 It is on these weaknesses that attention needs to be focused. In the next section key areas where change is needed are identified and possible ways forward identified.

The need for change

- 5.1 The opportunities exist in Waltham Forest for the authority to build on the current strengths of overview and scrutiny and to eliminate, or at least diminish the weaknesses. If we return to five key conditions which have to exist if the function is to be effective (see 2.5 above) it is apparent that
- ❖ there is a predisposition on the part of the executive to take the work of overview and scrutiny seriously, as evidenced by the number of recommendations emerging from that source which it has accepted. (This view is not held by all councillors, but it is by a majority).
 - ❖ there is a preparedness on the part of all parties to work together on overview and scrutiny as evidenced by the sharing of chairs and vice-chairs, and the fact that the chair of the Improvement and Monitoring Committee is held by a member of Conservative opposition
 - ❖ there is a dedicated scrutiny support unit who's role is widely valued. It is less clear how supportive the mainstream officer structure has been to overview and scrutiny, but there is certainly no evidence from members involved in overview and scrutiny that there is a problem here
 - ❖ the mode of operation of the Scrutiny Commission and Scrutiny Committees exhibits a number of features of 'good practice' – trimmed down agendas, increasing use of 'task and finish' panels, preparedness to operate in different settings (particularly in the case of education) – although there are also features which are less impressive (lack of agenda planning, formality of Commission meetings)
 - ❖ there is a reasonable level of ownership of the process, amongst all parties (although clearly with some individual exceptions)
- 5.2 Given that the **conditions** for effective scrutiny exist in Waltham Forest to a greater extent than they do in many other authorities, the question arises of why scrutiny is not more effective than it is, and what can be done to stimulate improvement.
- 5.3 There are five key areas in the operation of overview and scrutiny where (in my view) change is needed.
- ❖ Aims and priorities
 - ❖ Structures
 - ❖ Relation between the cabinet and overview and scrutiny
 - ❖ Opportunities for challenge
 - ❖ Agenda setting

5.4 Aims and priorities

There is a lack of clarity in Waltham Forest about what the main functions of overview and scrutiny should be. There are a range of options (see below), not all of which can be carried out with some degree of rigour. Prioritisation is essential.

Figure 1: Roles of Overview and Scrutiny

- Holding the executive (or executive committees under alternative arrangements) to account
- Policy review
- Policy development
- Best value reviews
- External scrutiny
- Improvement agenda (CPAs), performance management and review
- Ensuring corporate priorities are met
- Area scrutiny
- Monitoring and revising the constitution
- Engaging partner organisations
- Engaging the public
- Engaging the press
- Providing satisfying and meaningful roles for non-executive councillors.

Sources: Adapted from S Snape and F Taylor, A Hard Nut to Crack: Making Overview and Scrutiny work, LGA, 2001, p 5

- 5.5 Some of these roles have been prioritised and developed in Waltham Forest e.g.
- ❖ Improvement agendas (CPAs), performance management and review
 - ❖ Policy development (including the budget)
 - ❖ External scrutiny

‘Engaging the public’ is an emergent role, not yet fully developed. However the big area of uncertainty (in my view) is the extent to which the council, which is a highly politicised one, wishes to facilitate the key role of ‘holding the executive to account’. The scope for doing so is discussed under ‘opportunities for challenge’ (see below). There is also scope for extending ‘area scrutiny’ if the council so wishes, given the existence of area committees in Waltham Forest.

- 5.6 The main point to be made under this heading is that there would be considerable advantage in the council collectively re-considering what its priorities for overview and scrutiny should be, and then ensuring that its structures and processes reflect these priorities. Form should (of course) follow function. The process of re-consideration should ideally involve as many councillors as possible, and take place in an informal ‘workshop’ type of setting.

5.7 Structures

Although the detail of structural design can only be undertaken when aims and priorities have been clarified, the present structure is in my view confusing and inappropriate (**whatever** priorities are identified). As noted under 'weaknesses', the Overview Commission is too large in size and cumbersome in operation (see 4.4 above). In addition there is a particularly confusing relationship between the Commission and its four so-called sub-committees (see 4.4).

5.8 So how should this unhelpful situation be dealt with? There are various options, but one which merits serious consideration (and is consistent with good practice elsewhere) is as follows: A smaller, more focused Scrutiny Commission, should be established which includes the chairs (and possibly vice chairs also) of each existing sub-committee. The main functions of the Commission should be coordinative rather than directive and should include:

- ❖ development and coordination of work programme
- ❖ interface with the cabinet
- ❖ responsibility for management of the call-in system
- ❖ initiation of in-depth work on cross-cutting and external issues
- ❖ coordination of inputs to budget process
- ❖ liaison with area forums

5.9 This set of functions would be compatible with the continuation of four current sub-committees (which should be retitled 'panels'). In these circumstances there would be a case for setting-up a further body dealing with **environmental** issues (in the broadest sense). Such bodies should operate independently, within the context provided by the Commission's key roles (see above). The role of the Improvement and Performance sub-committee should be continued beyond the time when 'recovery' has been achieved, using it as the main vehicle for scrutiny's involvement in performance monitoring.

5.10 Relations between the cabinet and overview and scrutiny

Although current views concerning the relationship between the cabinet and overview and scrutiny (particularly the Scrutiny Commission) are diverse, the dominant view is that the two functions work reasonably well together. There is a developing tradition of 'pre-decision scrutiny' (only possible in authorities where the cabinet is supportive of this process). There is a demonstrably significant level of influence on the cabinet from scrutiny recommendations. The opportunities for developing a more productive relationship look good.

5.11 The problem at present is that the relationship, although relatively benign, is unstructured. There is little opportunity for discussion between cabinet and overview and scrutiny regarding their different agendas and the scope for co-ordination. Such liaison that does take place appears to be informal in nature, through the chair of the Scrutiny Commission. There are dangers in a reliance on such processes, particularly when the party background of the chair is the same as that of the dominant party in the coalition. Whatever the reality, there will often be worries (particularly from opposition members) about the potential use of this channel of communication to smooth over difficulties and to modify agendas, to avoid political embarrassment.

5.12 This danger can be overcome by formalising – but not over-formalising - the relationship. It would also be facilitated by the re-designation of the commission as a relatively small unit, including chairs (and possibly vice chairs) of the various panels (see 5.7 above). One approach which has worked well in other authorities is the establishment of regular but not frequent meetings of leading members of the cabinet and overview and scrutiny (at most quarterly, at least twice a year) to discuss their respective agendas and identify the scope for projects which meet the priorities of both. The liaison panel should meet on an informal and private basis and could have the following functions.

- ❖ Input to the overview and scrutiny work programme, including the opportunity for the cabinet to identify priority cross-cutting or ‘external’ areas of concern where an input from scrutiny would be welcome.
- ❖ A mechanism for resolving issues where there was a continuing disagreement at the individual panel level (e.g. over the appropriateness of a proposed scrutiny exercise). It is important to emphasise that there should be no ‘power of veto’ from the cabinet. However it would be appropriate for the Scrutiny Commission to veto a panel proposal, if convinced of the cabinet’s arguments.
- ❖ A mechanism for developing a more productive working relationship between overview and scrutiny and the cabinet (whilst retaining the independence of overview and scrutiny) and for identifying and resolving process issues (e.g. over call-in).

5.13 Opportunities for challenge

As noted earlier, in Waltham Forest the current balance between ‘overview’ and ‘scrutiny’ is weighted strongly towards the former with the exception of the Improvement and Performance Monitoring Committee which is currently scrutinising the progress of the Improvement Plan. This imbalance is probably appropriate, up to a point, in an authority such as Waltham Forest where the main focus is understandably on working collectively to improve performance. However it is important that the opportunity for legitimate challenge, (holding the executive to account) is safeguarded. Little use has been made of call-in recently in Waltham Forest, which may reflect a genuine lack of issues meriting call-in, but which may also reflect a lack of clarity in call-in guidelines and procedures.

5.14 Realistically, call-ins are much more likely to be instigated, in a politicised authority such as Waltham Forest, by opposition members. So long as this right is exercised responsibly – i.e. it is used to challenge decisions where they feel there are genuine grounds for concern, rather than to express political opposition in an opportunistic way – then it represents an important democratic mechanism. The current call-in arrangements are opaque (to an outsider) but appear to include a provision that if a decision has been subject to ‘pre-decision’ scrutiny, it cannot be subsequently be ‘called in’. This restriction is not helpful – there may be a good reason for challenge, whatever the outcome of pre-decision scrutiny – and this option should not be precluded (again, with the proviso that it is used responsibly).

5.15 Responsible ‘holding to account’, including call-in, is facilitated if the lead member of overview and scrutiny is an opposition member. Indeed the effectiveness of overview and scrutiny structures would be strengthened in general terms by a greater degree of continuity in those holding the chairs. The call-in process is facilitated if a

legitimate request for call-in cannot be vetoed by the party or parties forming the administration. Rather than being decided by the Scrutiny Commission itself, issues of whether a call-in should go forward would be better assessed by a small group of scrutiny leaders (one from each party), advised by the monitoring officer (providing advice as to whether the call-in meets specified criteria), but with a presumption 'in favour' of call-ins proceeding in situations of doubt.

5.16 Agenda – setting

As noted earlier, there are problems in the way in which scrutiny agendas are constructed, both in relation to Scrutiny Commission meetings and to the topics identified for in-depth treatment by 'task-and-finish' groups.

5.17 At the meeting of the Scrutiny Commission which I observed, there were two major items; first the presentation by the local Police Commander of the local Policing Plan, followed by a question and answer session; and secondly a presentation on the Council's policy for supporting voluntary organisations in the borough (a policy agreed by the cabinet at an earlier meeting) also followed by questions. The idea of limiting the agenda to two major items is in principle a good one, but it was not apparent why these two items had been selected, and what value the Scrutiny Commission was hoping to add. A perusal of previous agendas revealed some similar examples.

5.18 A similar conclusion can be drawn about the basis for the selection of topics for in-depth treatment in panels. The list of topics recently dealt with this way is interesting and diverse (examples include estate caretaking, air quality, benefits take-up, anti-social behaviour and 'tobacco and public health'). However the criteria for selecting them do not appear at all apparent. Panels involve a major allocation of time and energy for members and officers alike, and it needs to be clear why the topics selected are a priority. There are a range of criteria which could be justified (see Fig 2 below). In Waltham Forest it needs to be clear which criteria are being used and why.

Fig 2: Is this a Significant Subject for Review?

<p>A checklist from 'The development of overview and scrutiny in local government' by Copus et al (2000).</p> <ul style="list-style-type: none"><input checked="" type="checkbox"/> Issue identified by members as a key issue (through members' surgeries and other constituency activities)<input checked="" type="checkbox"/> Poor performing service<input checked="" type="checkbox"/> Service ranked as important by community (through market research, citizens' panels, and so on)<input checked="" type="checkbox"/> High level of user/general public dissatisfaction with service<input checked="" type="checkbox"/> Public interest issue highlighted in local media<input checked="" type="checkbox"/> High level of budgetary commitment to policy/service area

- Pattern of budgetary overspends
- Council corporate priority area
- Central government corporate priority area
- Issue raised by external audit or in inspectorate reports
- New government guidance or legislation

5.19 In Waltham Forest's current circumstances it would be sensible for one criteria of choice for in-depth studies to be topics which will help achieve the aims of the improvement plan. Such topics could be discussed at the proposed meetings of cabinet/overview and scrutiny lead members. To this end it is suggested that the cabinet should play a part in suggesting topics for in depth-study (with the Recovery Plan and the Corporate Strategy as key reference points. But equally, each scrutiny panel (including the Scrutiny Commission, which should be redesignated as a co-ordinating committee) should have the right to identify one in-depth task-and-finish topic, at any one point in time (i.e. when one topic is completed, a new one can be commenced).

5.20 A move in this direction will ensure that members who have developed a particular interest and experience in a specific service area (e.g. education) will have the opportunity to make their own judgements about priorities within an appropriate framework (such as that set out in 5.18) above). The Co-ordinating Committee would retain responsibility for identifying council-wide priorities through their meetings with the cabinet, and also for identifying cross-cutting issues, particularly those where there is a real level of public concern in the borough.

5.21 Other potential improvements

The five topics outlined above are those where, in my view, there is the greatest need for review and change. However there are other opportunities for strengthening the effectiveness of overview and scrutiny in Waltham Forest, which can be summarised under the headings of 'processes', 'public involvement' and 'training and development' respectively.

5.22 In relation to **processes**, there is a case for the development of more user-friendly agendas, designed to meet the particular needs of overview and scrutiny. The current agendas of the Scrutiny Commission are far too bulky and unwieldy and lack helpful guidelines to aid the scrutiny process. Greater use should be made of informal pre-meeting meetings (especially where external witnesses as cabinet members are to be questioned) and also post-meeting debriefings.

5.23 The Scrutiny Commission meeting I attended on December 8 seemed to me to illustrate the problems associated with a failure to undertake adequate preparation. Following the presentation by the Borough Police Commander there was an unstructured (albeit often interesting) succession of questions, where members raised a series of concerns, which were often based on specific local experiences, and often related only tangentially to the contents of the Policing Plan. How much better it would have been had the Commission met beforehand to plan a coherent questioning strategy.

- 5.24 There is a case for developing a more proactive strategy for the involvement of the public (including representative organisations) in Waltham Forest. The principle of **public involvement** appears to have been accepted, but currently there is little consistency in the circumstances and ways in which the public are involved. A strategy for greater public involvement in the overview and scrutiny process should be developed, recognising the different opportunities available (cooption, hearing evidence, opinion surveys, meetings in local venues). The strategy should also develop links with community councils in two ways
- a source of ideas about topics of public concern which merit consideration for 'task-and-finish group treatment
 - a reference point for consultation about local impact of council services or policies
- 5.25 Finally under this heading a greater use of external expertise should be encouraged, not just from stakeholders and residents, but from other agencies that can act as 'critical friends'. (In this connection the role of the Directors of Education of Salford MBC and Blackburn and Darwen UA, who have operated in this capacity in 'each others' authorities, should be noted).
- 5.26 In considering **training and development**, it should be recognised that by no means all non-executive members in Waltham Forest will have a high level of interest in, or commitment to overview and scrutiny, and are unlikely to volunteer their services to 'task and finish' panels. This should not necessarily be seen as a problem, so long as there is a 'critical mass' of scrutiny activists. There are other important role opportunities for non-executive members in the Borough, for example in relation to the regulatory functions of the council and the developing role of area committees.
- 5.27 The IDeA's Skill Framework for Elected Members provides a helpful basis for the development of a training programme, distinguishing as it does between different roles for non-executive councillors (scrutiny and challenge, communication skills, community leadership, regulating and monitoring). Development programmes in relation to scrutiny should be focused on those who wish to develop their skills relevant to this activity. The survey questionnaire responses indicate that whereas some members would welcome further development opportunities of this nature, others would not.

6.1 Conclusion

It would be possible to set out at this stage a set of formal recommendations for change, based on the analysis set out in Section 5. However that is not felt to be the best way forward. The amount of time spent reviewing overview and scrutiny in Waltham Forest was limited by the scope and time scale of the project brief provided. As a result, although I am confident that I have identified in Section 5 an agenda of issues that need to be addressed, the recommendations which are also contained within Section 5 are best seen as a stimulus to discussion. Members should have the opportunity to challenge both the basis on which the recommendations have been developed, and their content.

- 6.2 In my view, the best way forward is for the authority to provide opportunities for members to reflect on the analysis and possible ways forward set out in this report, in

a relatively informal setting. The agenda which forms the basis of Section 5 would provide an appropriate starting point viz.

- ❖ Aims and priorities of overview and scrutiny
- ❖ Structured changes
- ❖ Relations between cabinet and overview and scrutiny
- ❖ Opportunities for challenge
- ❖ Agenda – setting
- ❖ Improved processes
- ❖ Public involvement
- ❖ Training and development

Steve Leach, February 2005