

Operation of Overview & Scrutiny

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Introduction

Following the election and the appointment of the Overview and Scrutiny co-ordinator it is important to set out how Overview and Scrutiny will operate in practice moving forward; learning both from our previous experiences as well as reviewing best practice from elsewhere, ensuring that Overview and Scrutiny continues to add value, make a difference to local people's lives and remains central to streamlined and responsible local decision making.

Context

In 2019 the Council moved from the Elected Mayor system to a Leader and Cabinet model of Governance, as a result of which a number of new governance frameworks were introduced.

A cornerstone of good Governance and therefore good Overview and Scrutiny is to regularly review what is working well and where improvements can be made.

In advance of the election, Officers from Governance Support sought views from the then Chair of the Overview and Scrutiny Board; the then Chairs of the Adult Social Care and Health Overview and Scrutiny Sub Board and Children and Young People's Overview and Scrutiny Sub Board; a previous Chair of the Overview and Scrutiny Board together with Group Leaders and the previous Leader and Deputy Leader of the Council. This provided a cross party perspective alongside an officer review of best practice, to inform the preparation of this paper and the recommendations contained therein.

Background

The function of Overview and Scrutiny is to:

- Promote openness and transparency in the decision making process;
 - Hold decision-makers to account;
 - Help form and review Council policies; and
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- Make a positive impact on the quality and delivery of public services through recommendations to Cabinet and Council.

There are four core principles of scrutiny and accountability which are to:

1. Provide a constructive ‘critical friend’ challenge;
2. Amplify the voices and concerns of the public;
3. Be led by independent people who take responsibility and own the Scrutiny role; and
4. Drive improvement in public services.

Overview and Scrutiny - Current Arrangements at Torbay Council

The Overview and Scrutiny structure consists of:

- The main Overview and Scrutiny Board (which includes the Overview and Scrutiny Co-ordinator and four Scrutiny Leads, politically balanced);
- Adult Social Care and Health Overview and Scrutiny Sub-Board; and
- Children and Young People’s Overview and Scrutiny Sub-Board.

Work Programmes

The respective Boards set their own Work Programmes for the year, usually towards the end of the previous Municipal Year. However, a difficulty identified is that items on the Work Programmes often “slip” due to other pressures across the Council and other items are added throughout the Committee cycles, often at relatively short notice, because they require discussion and consideration, with recommendations to Cabinet/Council within a finite timeframe. This is part of pro-active scrutiny and means that the Work Programme has to be flexible with existing items reprioritised against urgent items that may arise throughout the Municipal Year.

The way in which this is managed is that the live Work Programmes are submitted monthly to the Council Leadership Group and are presented by the Overview and Scrutiny Co-ordinator. There are also Quarterly meetings with the Overview and Scrutiny Co-ordinator, Vice-Chair of the Overview and Scrutiny Board and Leader of the Council to discuss the Work Programme as well as monthly Overview and Scrutiny Briefings with the members of the main Overview and Scrutiny Board.

Members also review the Forward Plan and can ask for items to be added to the Work Programme or new items or reviews can be requested following discussions at the Overview and Scrutiny Board/Sub-Board meetings.

Overview & Scrutiny and the Relationship with the Audit Committee

The Audit Committee is the provider of independent assurance and oversight on:

- Adequacy and effectiveness of risk management framework;
- Systems of control, audit and governance; and Performance. (Note: Performance Monitoring will fall to Overview and Scrutiny after May 2023 as recommended by External Audit and Scrutiny Good Practice.)

The Audit Committee is, in effect, responsible for inward looking scrutiny in terms of how the Council operates within its own processes and procedures. However, there can be an overlap with Overview and Scrutiny in terms of policy and practice, for example, reviewing regular finance and performance reports; reviewing Council commercial activity and general review of value for money arrangements.

Over the last term of office, the Overview and Scrutiny Co-ordinator and the Chairman and Vice-Chairman of the Audit Committee have been members of both bodies to assist the relationship between the two bodies.

Approach to Scrutiny Reviews

Being a small Unitary Authority it is recognised there is a finite resource capacity within the Council to undertake many detailed reviews through Overview and Scrutiny.

Reviews are either identified as part of the annual Work Planning process, or, as occurs in the majority of cases, they are established by the Overview and Scrutiny Board arising from discussion on key topics which require further detailed investigation. Most Reviews last between three and six months, but some Reviews can continue over a number of years where they link to large projects, for example, the Council Redesign Programme and Accessibility Review.

Self-Evaluation against Best Practice

The Centre for Governance and Scrutiny “The Good Scrutiny Guide” June 2019 sets out three additional components of good scrutiny and good governance which are necessary in order for democracy at a local level to be participative and are necessary for good scrutiny to thrive. These are:

- Accountability – an environment where responsibility for services and decisions is clear and where those holding responsibility can and are answerable for success and failure;
- Transparency – the publication, proactively, of information relating to services and decisions to allow local people, and others, to hold policymakers and decision-makers to account; and
- Involvement – rules, principles and processes whereby a wide range of stakeholders (including elected representatives) can play active roles in holding to account and influencing and directing the development of policy.

In 2018, the Centre for Governance and Scrutiny carried out its first evaluations of local authority scrutiny functions using a new method, combining its wealth of research, policy and practical experience. Its document entitled “Scrutiny Improvement Review – Main Themes and Findings (2021) sets out an analysis and evaluation of the emerging themes from all of the reviews carried out between 2018 and 2021. It is against those findings that we can mirror the way in which Torbay Council currently operates its scrutiny function which, in turn, provides measurement as to what the Council currently does well in that respect and what it could do better.

From the work that was done pre-election, it is believed that the following areas are positively dealt with;

- There is good focus on Children’s Services and Adults Social Care and Health through the respective scrutiny sub boards both of which add significant value;
- Robust challenge of the Cabinet’s draft budget proposals through the Annual Priorities and Resources Review;
- Overview and Scrutiny uses informal self-evaluation to provide a check on effectiveness, with this feeding into the Annual Overview and Scrutiny Report which is presented at full Council, to outline scrutiny’s focus and impact over the past year;
- A structure is in place to enable effective Councillor oversight. This is delivered through the internal meeting structures outlined above. However, it is recommended that there is greater emphasis on ensuring more meaningful meetings which aim to produce demonstrable outcomes;
- Overview and Scrutiny is good at responding and reactive to urgent matters, although this places pressures on the capacity of the Council’s resources;

- Overview and Scrutiny is recognised as an important element of the Council’s governance by Officers and Members; and
- Overview and Scrutiny has the opportunity to review and help form policy framework.

Moving forward

Following discussion with the Overview and Scrutiny Co-ordinator a number of recommendations are made to embed and further improve Overview and Scrutiny in Torbay;

1. Creation of a Cabinet and Overview and Scrutiny Role Protocol.

Reason for recommendation:

- to clarify the roles and interplay of Overview and Scrutiny and Cabinet within the Council’s overall governance framework;
- to set out the practical expectations of the interplay between Overview and Scrutiny and Cabinet; and
- to improve engagement between the Cabinet and Overview and Scrutiny, building a stronger relationship to enable better interaction and resolution around sensitive issues and providing a helpful tool in dealing with any disagreement between the Cabinet and Overview and Scrutiny over contentious Overview and Scrutiny recommendations (Statutory Guidance: Overview and Scrutiny: statutory guidance for councils and combined authorities – published 7 May 2019 – Annex 1 suggestion for protocol and issues covered:
<https://www.gov.uk/government/publications/overview-and-scrutiny-statutory-guidance-for-councils-and-combined-authorities/overview-and-scrutiny-statutory-guidance-for-councils-and-combined-authorities#annex-1-illustrative-scenario--creating-an-executive-scrutiny-protocol>.

2. Continued attendance and commitment to attend by relevant Portfolio Holders and Directors at the Overview and Scrutiny Board and Sub-Board meetings to answer questions.

Reason for recommendation:

- Best Practice – CFGS Scrutiny Improvements: Themes and Findings (2021) – “In our experience when executive members attend and are the focus of questioning, a more strategic exchange takes place and better recommendations are achieved. To enact effective democratic accountability, our SIRs frequently underline the need for scrutiny to recognise its role and responsibility in holding the executive to account,

ensuring questions are directed to the relevant portfolio holder and are linked to clear priorities”.

3. Develop ongoing Scrutiny training for Members and Officers, with specialist training for Chairs of Overview and Scrutiny and a continuing emphasis on Member Development.

Reason for recommendation:

- to provide a better understanding of the role of overview and scrutiny;
- to assist Councillors in accumulating the necessary skills and knowledge required to become an effective scrutineer and/or Chair of Overview and Scrutiny;
- to nurture individual confidence and ability;
- to provide Councillors with ongoing learning and development opportunities throughout their term of office;
- to enable Overview and Scrutiny Members to develop greater expertise and insight, especially on the more technical aspects of finance, commercial activities and performance management; and
- to provide officers with an understanding of the role of Overview and Scrutiny, linking to overall governance framework and to ensure a joined-up approach between organisational delivery and Overview and Scrutiny objectives.

4. Increased profile and better engagement with the public and communities, to include local online discussion forums; blogs; Facebook group; improved Web presence.

Reason for recommendation:

- to improve public and community engagement with Overview and Scrutiny;
- embraces the Council Redesign Programme – “we will reconnect with, and enable and empower, our communities”;

5. Investigate ways in which the Council can encourage and achieve better community engagement through Overview and Scrutiny

Reason for recommendation:

- by utilising the Council’s Communications and Engagement Team to review the work programmes for matters of particular community interest and drawing on their expertise and knowledge, it will be possible to identify public priority topics for possible inclusion on work programmes which will provide a diversity of topics that the public wish to see scrutinised – this will help to promote further public engagement and participation, making Overview and Scrutiny more accessible.

- 6. Continuing to ensure that Scrutiny work is channelled through the right method:**
- a. Work Programme items, with early engagement wherever possible (e.g. development of the Revenue and Capital Plan Budgets);**
 - b. Remove “to note” items appearing on Board/Sub-Board agendas;**
 - c. Councillor Call for Action;**
 - d. Targeted Task and Finish Groups;**
 - e. Spotlight Reviews;**
 - f. Call in.**

Reason for recommendations:

- to streamline the Overview and Scrutiny function and process; and
- provide greater recognition across the Council as to the different mechanisms and value of Overview and Scrutiny in relation to overall Council governance.

- 7. To explore ways in which collaborative working can be improved between the Audit Committee and the Overview and Scrutiny Board.**

- a. The Overview and Scrutiny and Audit Committee work programmes will be reported through Council Leadership Group (CLG) to enable cross party awareness of their work, with the Overview and Scrutiny Co-ordinator being a member of CLG. As well as Overview and Scrutiny Leadership Quarterly meetings with the Leader of the Council, Group Leaders, Overview and Scrutiny Co-ordinator and Vice-Chair of the Overview and Scrutiny Board, Chair of the Audit Committee, Director of Corporate Services and Democratic Services.**
- b. Add the Audit Committee Work Programme to the Council Leadership Group and Quarterly Leadership meetings.**

Reason for recommendation:

- assistance with “deep dive” on matters which better rest within the remit and expertise of the respective committees, for example, Audit may require O&S to look at non-financial implications and O&S may require Audit to look at technical financial information;
- streamlining how the committees can work together but remain distinct and avoid duplication of work;
- fits in with good governance and
- Statutory Guidance: Overview and Scrutiny: statutory guidance for Councils and combined authorities – published 7 May 2019: “consideration should be given as to how to co-ordinate the various committees’ work to make best use of the total resources available”.

8. Improve strategic support for Overview and Scrutiny from the Senior Leadership Team, with the Director of Corporate Services being the main SLT support for Overview and Scrutiny

Reason for recommendation:

- to improve dialogue and a cohesive approach across the political and managerial leadership;
- to provide a strategic overview as to where Overview and Scrutiny could add value;
- to assist with horizon scanning and highlight policy development opportunities;
- enhance a greater mutual understanding between officers and Members of their respective challenges and considerations – identifying operational and service delivery areas that would benefit from Overview and Scrutiny involvement;
- to ensure the early engagement of Overview and Scrutiny so that it can make an effective contribution to the decision making process; and
- supports the continued clear strategic accountability with the Chief Executive supporting the Cabinet and the Director of Corporate Services supporting Overview and Scrutiny.

9. Creation of a six monthly Overview and Scrutiny Bulletin to be circulated to all Councillors and the Senior Leadership Team, with additional Bulletins produced where key achievements have been made.

Reason for recommendation:

- to provide a co-ordinated approach on updating Councillors and the Senior Leadership Team as to Overview and Scrutiny's work and progress on Review group recommendations; and
- to share information as to how Overview and Scrutiny recommendations have been implemented and impact measured.

10. Introduce a formal mechanism to strengthen self-evaluation of Overview and Scrutiny arising from Reviews.

Reason for recommendation:

- to ensure continued reflection and improvement to the Overview and Scrutiny function and how it successfully operates in order to ensure that it continues to add maximum value to the decision making process.

Recommendation to Overview and Scrutiny Board:

That the Overview and Scrutiny Board endorses the proposed operation of Overview and Scrutiny and the recommendations 1 to 10 as set out in the submitted report.