

Slough Borough Council

Report To:	Overview and Scrutiny Committee
Date:	17 November 2022
Subject:	Scrutiny Improvement Review
Chief Officer:	Stephen Taylor, Monitoring Officer
Contact Officer:	Alexander Polak, Head of Governance and Scrutiny (Statutory Scrutiny Officer)
Ward(s):	ALL
Exempt:	NO
Appendices:	Appendix A – Centre for Governance and Scrutiny, Scrutiny Improvement Review, Feedback Report Letter, November 2022 Appendix B – Scrutiny Improvement Action Plan

1. Summary and Recommendations

- 1.1 The Secretary of State has intervened in Slough Borough Council (SBC), and one of their Directions is that the Council must make a plan to improve its scrutiny function. The Centre for Governance and Scrutiny, the UK's leading organisation for this type of work, has completed a review of SBC's scrutiny function (Appendix A) and made recommendations (section 3 of Appendix A). This report proposes that the Committee and then Full Council endorse these recommendations and take steps to implement changes to the scrutiny function as soon as practicable. A Member Working Group is proposed to steer how these recommendations are implemented over the coming months.

Recommendations:

- 1) That the actions to date and next steps in the Scrutiny Improvement Action Plan at Appendix B be noted
- 2) That the findings of the Centre for Governance and Scrutiny's Scrutiny Improvement Review at Appendix A be noted
- 3) That the recommendations found in section 3 of the Scrutiny Improvement Review Feedback Report Letter be endorsed.
- 4) That the O&S Committee recommends to Council:
 - a) That the actions to date and next steps in the Scrutiny Improvement Action Plan at Appendix B be noted
 - b) That the findings of the Centre for Governance and Scrutiny's Scrutiny Improvement Review at Appendix A be noted

- c) That the recommendations found in section 3 of the Scrutiny Improvement Review Feedback Report Letter be endorsed.
- d) That a Scrutiny Working Group be reconvened in order to make recommendations to council, as soon as practicable ahead of the May 2023 elections, about the detailed changes to Overview and Scrutiny, plus associated constitutional changes.

Reason: To properly receive, in public, this important external review of a key part of Slough Borough Council's democratic governance arrangements, and to make sure swift action is taken in response.

Commissioner Review

"No programme for improvement of the scrutiny function was presented for approval by Commissioners as required by the Direction in the time specified. Commissioners were aware of the commissioning of the CfPS report and welcome its findings and recommendations. This report is a useful update but the Council needs to make urgent progress in setting out a resourced plan as Directed and ensure it has appropriate approvals and is regularly monitored."

2. Report

Why was a review commissioned?

- 2.1 In October 2021 an [external assurance review](#) of Slough Borough Council was published. This included a [governance review by Jim Taylor](#) for the Secretary of State, dated September 2021. This included the following statement:

"The scrutiny function is under resourced and there is no permanent statutory scrutiny officer. All seven meetings of Scrutiny Committees were cancelled in June and July of 2021. The interim Head of Democratic services left the organisation in July 2021. Elected Members indicate they require additional scrutiny resource to carry out their function effectively. Members state that scrutiny reports are complex and hard to interpret, and it is difficult for lay people to challenge. It is acknowledged that some reports have not been given enough scrutiny. Slough Children First refer to an inadequate focus on their activity within the scrutiny function. Members also state that there is has been an 'erosion of trust' with officer reports, considering 'what has happened'. There is no scrutiny forward plan."

- 2.2 In December 2021 the Secretary of State for Levelling Up, Housing and Communities ("the Secretary of State") made [Directions to Slough Borough Council](#) under the Local Government Act 1999 which included the following [in section 3 of Annexe A](#):

"In the first three months prepare and agree an Improvement Plan to the satisfaction of the Commissioners (which may include or draw upon improvement or action plans prepared before the date of these Directions), with resource allocated accordingly, and as a minimum, the following components:

...

An action plan to achieve improvements in relation to the proper functioning of the scrutiny function...”

- 2.3 A Service Improvement Plan was created including various actions to improve the functioning of scrutiny, many of which are complete such as:
- provision of scrutiny training to councillors and officers, and report-writing training for officers;
 - The Head of Service role for the function has been re-filled and made Statutory Scrutiny Officer;
 - Re-provision of scrutiny officer capacity has been made in the Democratic Services budget, recruitment of which is underway;
 - A Work programming exercise was completed with all scrutiny members;
 - Three focused Task & Finish groups have been launched, including one focused on Slough Children First; and
 - An improved budget scrutiny process has been agreed with Scrutiny Members and is underway.
- 2.4 At the time of the Jim Taylor report, Slough Borough Council also commissioned the Centre for Governance and Scrutiny (CfGS) to do a review of its scrutiny function. This review was carried out after commissioners had then been appointed.
- 2.5 CfGS describes itself as ‘a social purpose consultancy and national centre of expertise, whose purpose is to help organisations achieve their outcomes through improved governance and scrutiny’. Since the creation of overview and scrutiny in local government over 20 years ago, they have been the recognised centre of excellence in the UK for Overview and Scrutiny, and good governance in local authorities.

Findings of the review

- 2.6 The Centre for Governance and Scrutiny’s draft findings have fed into training delivered to Scrutiny Members during the course of this year. Now, as we approach the May 2023 all-out elections, the final version of their report is being published, at appendix A.
- 2.7 The CfGS report includes, in its section 3, a number of recommendations which are considered advisable for the further improvement of SBC’s scrutiny function. The recommendations are not binding, but they are evidenced, authoritative and public.
- 2.8 The report includes an evidence-based description of issues relating to behaviour, skills, knowledge and practice of both officers and members, in various ways, in relation to scrutiny. The report is self-aware that it represents a moment in time and it is likely that members and officers will be aware of other issues or areas of strength in the system which are not included. For this reason, SBC’s action plan for the improvement of scrutiny may include other measures as well as those identified by CfGS.

The Council’s response to the review

- 2.9 While the council can expect to shape its own scrutiny function in light of the recommendations from CfGS, any significant deviation from these

recommendations would need to be supported by an appropriately similar weight of evidence.

- 2.10 The recommendations made by CfGS include some changes to the structure and focus of SBC's scrutiny function which are a strong and direct response to the council's current financial and organisational predicament, as represented by the current intervention by the Secretary of State. As their report explains, some of these changes may be regarded as temporary ie for the duration of this intervention, so Members may expect to review scrutiny again towards or at the end of the council's recovery journey.
- 2.11 It should be expected that the commissioners appointed by the Secretary of State will pay close attention to both the recommendations and the implementation of these recommendations when they review and report on the Council's progress against the Direction specified at section 2.1 above.
- 2.12 A Scrutiny Improvement Action Plan is included as a background paper for the other report on today's Overview and Scrutiny Committee agenda. It is further reproduced, for convenience, at appendix B of this report. It takes account of the work done during the year and notes the CfGS recommendations pending Council's consideration of them. It does not presuppose the council's endorsement of the CfGS recommendations.

Scrutiny Member Working Group

- 2.13 This report recommends that Council be asked to convene a Scrutiny Member Working Group. Such a group carried out a review of scrutiny arrangements in 2020-2021. Its remit in this case would be to consider the Council's position on the CfGS recommendations in conjunction with other information about scrutiny best practice (eg as collected by the previous working group in 2020-21) and to make detailed proposals back to Full Council for implementation as quickly as possible.
- 2.14 The working group's considerations may include whether to make proposals for shadow arrangements during the life of the current council (see 2.17, Jan-April), as well as for new structures and ways of working from May 2023 onwards.
- 2.15 This informal working group would be comprised of:
- The Chairs of the four current scrutiny committees/panels
 - Four members of the Cabinet (nominated by the Leader)
 - The Leader of the Opposition (or their nominee)
- 2.16 The Members Panel on the Constitution will of course also need to have a role in regard to any proposed constitutional changes.

Proposed next steps

- 2.17 The proposed next steps are:

17 November 2022 – Scrutiny committee endorsement of CfGS recommendations, and recommendation on to Full Council

22 November 2022 – Full Council endorsement of CfGS recommendations and agreement to reconvene Scrutiny Members Working Group

December 2022 – Scrutiny Members Working Group meet to consider detailed implementation proposals including timeline for implementation.

Jan-April 2023 – option for shadow arrangements to be established ahead of May 2023 elections, possibly via recommendation to Council early in the new year. To be considered by Scrutiny Members Working Group. This could include the O&S Committee operating as if it were the future Corporate Improvement Scrutiny Committee, while the current three panels use the remainder of their meeting time to complete their existing work on the budget, complete their existing Task & Finish groups, and to make work programme recommendations to be picked up after the May election.

May 2023 – implementation of new scrutiny arrangements in full, including any associated constitutional amendments

May-September 2023 – induction of new Council to include support and development for Councillors and officers re: new Overview and Scrutiny arrangements

3. Options considered

3.1 Members have options for two main areas of the recommendations, as follows.

1) Whether and in what manner to endorse the recommendations:

- a) **Endorse the CfGS recommendations to Council**
- b) Endorse the CfGS recommendations to Council but with evidence-based amendments
- c) Do not endorse the CfGS recommendations to Council

2) Whom Council should ask to take forward the detailed work:

- a) **Recommend that Council convene the Scrutiny members Working Group to take forward the detailed work for implementation and to make future recommendations to Council**
- b) Recommend that Council asks a different member group to carry out this work,
- c) Recommend that officers make recommendations to Council without further member input.

The recommended options have been highlighted **in bold**.

4. Implications of the Recommendation

4.1 Financial Implications

4.1.1 Full consideration of financial impacts of any changes to the council's scrutiny arrangements will need to accompany the future reports recommending those specific changes. The act of endorsing the recommendations of or recommending them to Council does not carry any financial implications.

4.1.2 However, for an indication of the types of issues likely to arise when the implementation of the recommendations is pursued:

- 4.1.2.1 The budget for reinstating a single scrutiny officer in the council, based in Democratic Services, has already been agreed.
- 4.1.2.2 There would be resource implications for a change of the style of scrutiny from being primarily in-committee with four committees, to being more balanced between a single main committee and a strong programme of Task & Finish work, as proposed by CfGS. There is likely to be an opportunity cost in the time of officers across the council in servicing those T&Fs as well as a change in the nature of the work done by Democratic Services in order to support them. CfGS proposes limits to the scale of T&F work at any one time, which may help ensure this work can be delivered within existing resources (including the new scrutiny officer capacity) but this would need assessment. Currently the service is in a halfway position, where a number of T&F groups have already been started but there are still four committees as well. While doing both in this way can work in the very short term it would not be sustainable from an officer resource perspective even once the scrutiny officer role is recruited.
- 4.1.2.3 An Independent Remuneration Panel would need to be convened to consider and make recommendations on whether any change to the scrutiny structure should change the Special Responsibility Allowances (SRAs) associated with leadership positions in the scrutiny function. This may include the Chair and Vice Chair of the proposed Corporate Improvement Scrutiny Committee and potentially Chairs of T&F groups. The three current Scrutiny Panel Chairs each receive an annual Special Responsibility Allowance of £3,291, totalling £9,873 a year between them. Vice Chairs of Scrutiny Panels (and Chairs of T&F groups) do not currently receive a Special Responsibility Allowance.

4.2 Legal Implications

- 4.2.1 Full consideration of legal impacts of any changes to the council's scrutiny arrangements will need to accompany the future reports recommending those specific changes. The act of endorsing the recommendations of or recommending them to Council does not carry any legal implications.
- 4.2.2 However, for an indication of the types of issues likely to arise when the implementation of the recommendations is pursued:
 - 4.2.2.1 Overview and scrutiny committees were established in English and Welsh local authorities by the [Local Government Act 2000](#). They were intended as a counterweight to the new executive structures created by that Act (elected mayors or leaders and cabinets). Their role was to develop and review policy and make recommendations to the council.
 - 4.2.2.2 Overview and scrutiny committees have statutory powers to scrutinise decisions the executive (or 'cabinet') is planning to take, those it plans to implement, and those that have already been taken/implemented. Recommendations following scrutiny enable improvements to be made to policies and how they are implemented. Overview and scrutiny committees can also play a valuable role in developing policy.
 - 4.2.2.3 Overview and scrutiny committees have accumulated a number of powers to undertake 'external scrutiny' of specific additional bodies outside the council, including scrutiny of health bodies and authorities, and scrutiny of crime and disorder strategies.

- 4.2.2.4 Provisions exist for the co-option of representatives from outside the Council onto scrutiny committees when they are considering certain specific issues, for example representatives of faith groups and school governors when education matters are under consideration.
- 4.2.2.5 [Statutory guidance on Overview and Scrutiny in Local and Combined Authorities](#) was published in 2019 by the then Minister for Local Government, Rishi Sunak, and this should be given due regard when designing any future arrangements.
- 4.2.2.6 Any arrangements put in place should take account of all of the above. Current overview and scrutiny legislation recognises that authorities are democratically-elected bodies who are best-placed to determine which overview and scrutiny arrangements best suit their own individual needs, and so gives them a great degree of flexibility to decide which arrangements to adopt. The CfGS recommendations are compatible with all of the above.
- 4.2.2.7 A useful overview of Scrutiny’s powers and duties can be found in the [2019 House of Commons Library briefing paper 06520: Overview and Scrutiny in Local Government](#).
- 4.2.2.8 On 1 December 2021 the Secretary of State for Levelling Up, Housing and Communities made statutory directions requiring the Council to take prescribed actions and that certain functions be exercised from this date by appointed Commissioners, acting jointly or severally. The directions were extended on 1 September 2022. The directions were made under Part 1 of the Local Government Act 1999 due to the Council having failed to comply with its best value duty. The general duty of best value is set out in section 3 of the Local Government Act 1999 and requires local authorities to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness”. This requires consideration of overall value, including economic, environmental and social value, when reviewing service provision. There is also a duty to consult when deciding how to fulfil the best value duty.
- 4.2.2.9 Annex A of the directions set out the action the Council is required to take. This included a requirement for an improvement plan with a number of specific action plans. The improvement plan was approved by full Council in May 2022 with a series of recovery themes. The scrutiny improvement action plan was part of this plan, with the detail included in the action plan appended at Appendix B. The action plan will be regularly reviewed and updated to take account of progress and agreed next steps.
- 4.2.2.10 Annex B of the directions set out the functions to be exercised by the Commissioners. These are held in reserve and only exercised where needed. The functions include “All functions associated with the governance and scrutiny of strategic decision making by the Authority”. The Commissioners have not sought to exercise their powers in relation to this matter, however careful attention should be given to any advice of the commissioners set out in this report.

4.3 Risk management implications

4.3.1 Full consideration of risk management implications of any changes to the council's scrutiny arrangements will need to accompany the future reports recommending those specific changes. The act of endorsing the recommendations of or recommending them to Council is primarily associated with the following risks:

- Reputational risk: if the council is not seen to address or take seriously these evidence-based external recommendations, or if the council is otherwise not considered to be properly addressing the direction made by the Secretary of State to improve its scrutiny function, there is a strong risk of attracting public criticism and/or censure, including from the commissioners appointed by the Secretary of State.
 - Mitigation: This risk may be mitigated by endorsing the CfGS recommendations and moving swiftly to design and implement scrutiny arrangements for SBC which take account of them.
- Governance risk: Slough Borough Councillors have a duty and responsibility to ensure that the council functions effectively and provides best value for its residents. Overview and Scrutiny is an important part of this, providing a critical check and balance to decision-makers and allowing all councillors to play a part in shaping policy. Various reports and inspections over recent years, including the one in Appendix A, have raised concerns or issues about the effectiveness of this function. If it is not improved then this may contribute to a failure of the council to meet its responsibilities at a fundamental level ie balancing its budget while providing statutory services for the residents of Slough Borough Council.
 - Mitigation: This risk may be mitigated by endorsing the CfGS recommendations and moving swiftly to design and implement scrutiny arrangements for SBC which take account of them.

4.4 Environmental implications

4.4.1 Full consideration of environmental impacts of any changes to the council's scrutiny arrangements will need to accompany the future reports recommending those specific changes. The act of endorsing the recommendations of or recommending them to Council does not carry any environmental implications.

4.5 Equality implications

4.5.1 Full consideration of equality impacts of any changes to the council's scrutiny arrangements will need to accompany the future reports recommending those specific changes. The act of endorsing the recommendations of or recommending them to Council does not carry any equality implications. Effective scrutiny can play a key role in ensuring the Council is properly complying with its equality duties and this should be considered when identifying a work programme of activity.

5. Background Papers

None

6. Appendices

Appendix A – Centre for Governance and Scrutiny, Scrutiny Improvement Review, Feedback Report Letter, November 2022

Appendix B – Scrutiny Improvement Action Plan