



# The Royal Borough Guide to Scrutiny

Robust Review, Constructive Challenge



THE ROYAL BOROUGH OF  
KENSINGTON  
AND CHELSEA



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# Foreword



With the concentration of power in the Cabinet, the role of Scrutiny in good democratic governance is crucial.

First, it is the only regular check between elections on decisions taken by the Council; and secondly, it provides essential experience for new and backbench members of the Council. It represents an essential introduction and insight into how the Council functions.

An increasing role for Scrutiny is not just commenting on Key Decisions, essentially a reactive exercise, but looking ahead at changes in policies and the way they are implemented. This is done by undertaking pre-decision scrutiny – a constructive role which gives backbench members real influence.

Scrutiny is not easy to grasp, as it is complex. While Members will learn on the job, it is hoped that this guide will help Members and the public grasp the theory and principles of Scrutiny and get more involved.

This is an essential guide to understanding local scrutiny. I recommend you share it with residents so that they too can join in and help us provide robust review and constructive challenge in the Royal Borough.

**Councillor Joanna Gardner**

*Chairman, Scrutiny Steering Group*

*November 2010*

# The purpose of this guide

This guide intends to be a comprehensive, informative resource for understanding Scrutiny in the Royal Borough – it is intended for Councillors, officers and residents alike. More information and advice about specific aspects of Scrutiny is available on the Scrutiny website – [www.rbkc.gov.uk/scrutiny](http://www.rbkc.gov.uk/scrutiny). You can also obtain further information from the Scrutiny Team, whose contact details are listed at the back of this guide.

*Please note that this guide is a working document and is regularly updated. To ensure you have the latest version, please download a copy from the scrutiny website: [www.rbkc.gov.uk/scrutiny](http://www.rbkc.gov.uk/scrutiny)*

# Part 1 – Background and Structure

## Origins of Overview and Scrutiny

Part 2 of the *Local Government Act 2000* introduced new political governance arrangements for local authorities. The Act required that all local authorities move away from the traditional committee style of decision-making, in which all members had a formal decision-making role. The Royal Borough adopted the Leader and Cabinet model and has been operating it ever since.

In essence, the Act meant two things for Council Governance Structures:

- The creation of a small Executive, responsible for taking day-to-day decisions on the running of the authority within a policy and budget framework agreed by the full Council.
- A check and balance to the exercise of Executive power, known as an Overview and Scrutiny committee, was created to hold the Executive to account. It could also review areas of Council activity or matters of wider local concern. Overview and Scrutiny could also advise the Executive on the formulation of policy.

Scrutiny has been evolving since 2000 and during the last decade legislation affecting the way Scrutiny is done has been promulgated from time to time. In summary, these legislative changes include:

- The *Health and Social Care Act 2001*, which empowers Scrutiny to compel the health sector (PCTs, for example) to be scrutinised.
- The *Police and Justice Act 2006*, which

Scrutiny uses to underpin scrutiny of LAA targets on police and crime.

- The *Local Government and Public Involvement in Health Act 2007* enables Scrutiny, in relation to Local Area Agreements<sup>1</sup>, to:
  - > scrutinise local improvement targets
  - > require information from partner organisations signed up to LAA targets
  - > require these organisations to have regard to Scrutiny recommendations which relate to a relevant LAA target.
- The *Local Democracy, Economic Development and Construction Act 2009*, which includes a requirement to designate a scrutiny officer, a requirement to raise the public profile of Scrutiny and broadens the scope of joint Scrutiny Committees.

## Principles and responsibilities of Scrutiny in the Royal Borough

Whilst relevant legislation (and most local authorities) makes reference to ‘Overview and Scrutiny,’ in the Royal Borough it is felt that the name ‘Overview and Scrutiny’ is unnecessarily clumsy and has been abbreviated to ‘Scrutiny’.

Scrutiny is defined as an activity that looks back in time to examine decisions or performance after the event, while Overview is defined as looking forward in time to develop ideas and policy before implementation. Our abbreviated title looks both ways. It is simply an easier way of referring to Overview and Scrutiny.

<sup>1</sup> See page 22.

Scrutiny's primary role in the Royal Borough is two-fold. It ensures that the Leader, Cabinet and senior officers are held to account for their decisions, and provides additional ways for local residents and organisations to make their views heard and contribute to effective policy development and decision-making. Scrutiny can also provide a forum and opportunities to bring together Scrutiny and Executive Members, officers and the public to carry out deep level, real time scrutiny of specific issues.

Scrutiny Committees comprise all the Councillors who are not members of the Executive, and have the power to invite members of the public or representatives of local organisations as observers or co-optees.

The Centre for Public Scrutiny ([www.cfps.org.uk](http://www.cfps.org.uk)) has put forward four principles for effective scrutiny. In their view, Scrutiny should:

- provide 'critical friend' challenge to executive policy-makers and decision-makers
- enable the voice and concerns of the public and its communities to be heard
- be carried out by 'independent-minded governors' who lead and own the scrutiny process
- drive improvement in public services.

These principles underpin the work of the Scrutiny Committees in the Royal Borough.

It is broadly recognised that scrutiny will not work if it is adversarial. Similarly, it will not work if it is conducted on a party-political basis. Scrutiny should be challenging and may even, on occasion, be uncomfortable. But the process should never be confrontational and should rely on evidence rather than opinion.

This is also reflected in the Royal Borough's Scrutiny 'strapline': *Robust Review,*

*Constructive Challenge.* The Scrutiny function is not subject to the 'whip' and Councillors, regardless of party affiliation, work together on the Committees and in working groups to develop policy, conduct in-depth reviews, or question decision-makers with independent, impartial officer support.

## Scrutiny structure in the Royal Borough

### Committees

Scrutiny arrangements differ from council to council. The Royal Borough has five Scrutiny Committees with a Scrutiny Steering Group comprising the five Committee Chairmen.

Key responsibilities are to:

- hold the Leader, Cabinet and senior Council officers to account for their decisions
- review Council policy, the way policies are implemented and their impact on local people
- scrutinise decisions before they are made and before they are implemented
- contribute to the development of policy by investigating issues of local concern and making recommendations to the Executive (and the Council's partners).

In addition to these responsibilities, Scrutiny also has an important external-facing role involving the performance of other public bodies (such as Thames Water, the PCT, TfL and the police) in the borough and invites them to report to and/or address the appropriate Scrutiny Committee about their activities and performance.

Scrutiny remits and responsibilities are constitutionally prescribed.

## What the Constitution says

Scrutiny governance arrangements, membership, remits and powers are described in Part 2, Article 6 of the Constitution and are summarised below for ease of reference.

Besides the roles of holding the Executive to account and policy development (both dealt with separately in more detail below), the Council's Constitution makes specific provision for the general remit of Scrutiny, outlining the general duties of Scrutiny Committees. It stipulates that Scrutiny Committees are empowered to:

1. review and scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions
  2. recommend and report to the full Council (including committees of the Council) or the Executive (including advisory groups) in connection with the discharge of any of the Council's functions
  3. consider any matter affecting the Royal Borough or its inhabitants
  4. exercise the right to call-in for reconsideration decisions made but not yet implemented by the Executive
  5. hold an inquiry into a matter which has been the subject of a report from the Monitoring Officer or the Chief Finance Officer.
3. consider and implement mechanisms to encourage and enhance community participation in the development of policy options
  4. question members of the Executive and/or members of committees, executive directors and directors about their views on issues and proposals affecting the area
  5. liaise with other external organisations operating in the area, whether national, regional or local, to ensure that collaborative working enhances the interests of local people and, subject to Order of the Secretary of State, to require partner organisations to provide information to Scrutiny Committees.

Specifically, in relation to policy development, the Constitution makes provision for Scrutiny Committees to:

1. assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues
2. conduct research, community and other consultation in the analysis of policy issues and possible options



Councillor Blakeman  
Chairman

## Cabinet and Corporate Services Scrutiny Committee

### (a) Membership

Eleven members (nine majority party, two minority party)

### (b) Terms of Reference

To scrutinise:

1. Business handled by the full Cabinet which does not fall within the remit of another Scrutiny Committee.
2. Individual Cabinet Member decisions not allocated to another scrutiny committee.
3. To carry out the functions of a crime and disorder committee in accordance with the Police and Justice Act 2006;
4. Matters of corporate management or interest including:
  - a) local democracy
  - b) the achievement of effective, transparent and accountable decision-making by the Council
  - c) the Council's approach to Best Value
  - d) the Council's budget and overall financial management
  - e) corporate policy, including Council-wide personnel and staff management policies
  - f) information and communication technology
  - g) the introduction, development or termination of major services within the Borough
  - h) the Mayoralty and Civic functions
  - i) services to Members, including allowances
  - j) corporate grants
  - k) community relations
  - l) consultation with the local community
  - m) European matters
  - n) Drugs, community safety and emergency planning
  - o) Regeneration and economic development
  - p) Scrutiny of the Kensington and Chelsea Partnership and other partnerships associated with the delivery of corporate services
  - q) Scrutiny of the proposed Chelsea Care trading company.



Councillor Weale  
Chairman



Councillor Marshall  
Chairman

## Health, Environmental Health and Adult Social Care Scrutiny Committee

### (a) Membership

Eleven members (eight majority party and three from minority parties)

### (b) Terms of Reference

1. The provision, planning, management and performance of all adult social care and environmental health services;
2. Health partnerships where adult social care is a significant partner in terms of service delivery or management accountability;
3. Any partnerships associated with the delivery of adult social care and environmental health services;
4. corporate grants;
5. The public health agenda;
6. The provision of care by all NHS Trusts particularly the Kensington and Chelsea PCT, Chelsea and Westminster Foundation Trust; Imperial College Hospital Trust in partnership with the City of Westminster; Royal Marsden in partnership with the London Borough of Sutton; Royal Brompton and Harefield in partnership with the London Borough of Hillingdon; London Ambulance Service; and the Central and North West London NHS Foundation Trust.
7. Aspects of partnerships where the Council is a partner in terms of health service delivery and accountability;
8. Participation with scrutiny committees of the other London boroughs in matters which cross borough boundaries.

## Housing and Property Scrutiny Committee

### (a) Membership

Eleven members (nine majority party, two minority party)

### (b) Terms of Reference

1. The provision, planning, management and performance of all housing services;
2. Any partnerships associated with the delivery of housing;
3. Social housing regeneration and the Housing Regeneration Programme;
4. Supporting People services;
5. The Tenant Management Organisation ;
6. Housing strategy, housing stock finance and development;
7. Corporate asset management strategy, plan and delivery.



Councillor Coates  
Chairman



Councillor Gardner  
Chairman

## Family and Children's Services Scrutiny Committee

### (a) Membership

Eleven members (eight majority party and three from minority parties), plus four co-opted voting members and two co-opted non-voting members

### (b) Terms of Reference

1. Social services provision for children and families.
2. Scrutiny of the Family and Children's Strategic Partnership and Children's Trust arrangements and responsibility for the scrutiny of other partnerships associated with the delivery of the services within the Committee's remit.
3. Education, training and youth services.
4. Early years, childcare and play services.
5. Sports education.
6. Youth support service incorporating careers advice.
7. Libraries services.
8. Education and industry links.
9. Participation with other education providers in voluntary organisations.

## Public Realm Scrutiny Committee

### (a) Membership:

Eleven members (nine majority party, two minority party)

### (b) Terms of Reference:

1. The preservation, enhancement and protection of the built and natural environment.
2. The scrutiny of any partnerships associated with the delivery of services within the Committee's remit.
3. The provision, planning and management of measures for the protection and enhancement of the quality of life in the Borough, including:
  - a) tourism and visitor management
  - b) environmental quality and cleanliness
  - c) control of pollution and contaminated land
  - d) transport, streets and highways
  - e) traffic management and parking
  - f) waste management
  - g) licensing policy
  - h) planning policy
  - i) museums, arts and cultural services
  - j) leisure services, parks and open spaces
  - k) burials, cremation, mortuaries and coroners services
  - l) Notting Hill Carnival

## The Scrutiny Steering Group

Generally known by the abbreviation 'SSG', it comprises the Chairmen of the five Scrutiny Committees. It meets seven or eight times a year in order to:

1. coordinate scrutiny work and finalise cross-cutting in-depth reviews
2. prepare and agree an annual Scrutiny programme of work
3. agree an Annual Report
4. hold the Cabinet to account twice a year
5. agree and monitor the Scrutiny budget
6. exchange good practice between Chairmen
7. deal with any matters which affect all Scrutiny Committees.

## The Scrutiny website – [www.rbkc.gov.uk/scrutiny](http://www.rbkc.gov.uk/scrutiny)

A good overview of Scrutiny in the Royal Borough can be found on the Scrutiny website, which is also a quick way to access a range of Scrutiny information, including:

- Scrutiny Committee membership, agendas, minutes and documents
- Annual Scrutiny Work Programme
- Scrutiny working group reports
- Joint Health Overview and Scrutiny (JHOSC) reports
- Annual Reports
- Meetings calendar – the Council's meetings schedule 2010
- The Royal Borough Guide to Scrutiny.

## Support for Scrutiny

The Scrutiny Manager, in consultation with the Director for Strategy and Service Improvement and the Head of Governance, is primarily responsible for the provision of support and guidance to Scrutiny Committees and their Members.

The Scrutiny Manager acts as the Council's 'Scrutiny Officer' under the Local Democracy, Economic Development and Construction Act 2009. Under the Act, the officer has the responsibility:

- (a) to promote the role of the authority's overview and scrutiny committee or committees;
- (b) to provide support to the authority's overview and scrutiny committee or committees and the members of that committee or those committees;
- (c) to provide support and guidance to:
  - (i) members of the authority
  - (ii) members of the executive of the authority
  - (iii) officers of the authority

in relation to the functions of the authority's overview and scrutiny committee or committees."

The Council's Head of Paid Service, Monitoring Officer and Statutory Finance Officer are all specifically excluded from being appointed to this post.

The Scrutiny Manager works in close collaboration with the Head of Governance and the five Governance Administrators to provide support to the five Scrutiny Committees and the Scrutiny Steering Group.

# Part 2 – How Scrutiny works in the Royal Borough



## A: Policy Development

### Introduction

A brief, general snapshot of some of the typical activities of a Scrutiny Committee is easily revealed by looking at any of the previous agendas of committee meetings. These can be found on the Scrutiny website, [www.rbkc.gov.uk/scrutiny](http://www.rbkc.gov.uk/scrutiny), by clicking on the link ‘Scrutiny Committee membership, agendas, minutes and documents’.

A typical agenda is generally best described as a ‘mixed bag’, comprising reports which the Scrutiny Committee has asked officers to bring to it; presentations (either by officers or external organisations) which it has requested; reports from working groups; and other officer reports often related to the stage in the Municipal Year. In the case of the latter, all Scrutiny Committees will, for example, consider the Cabinet Business Plan at the January cycle; similarly, they also consider the revenue and capital budgets at this time of year.

Performance Management information, in the form of the Council’s high-level digest of

information known as ‘Vital Improvements’ is considered three times a year. Depending on the Scrutiny Committee, there will also be reports specific to the remit of that committee which are brought to it on a regular basis.

The Scrutiny Annual Report, also available on the Scrutiny website, is also a good starting point to get a sense of what Scrutiny is all about.

### Scrutiny Annual Work Cycle

The Scrutiny Annual Work Cycle starts with the September round of Committee meetings and ends with the July round of meetings the following year. Key milestones in the Annual Work Cycle are:

- Scrutiny Committee membership – following the May Council Annual General Meeting.
- Consultation and preparation of next year’s Annual Work Programme – June/July; this is outlined in more detail below.
- Agreement on next year’s Annual Programme – September cycle of Scrutiny Committee meetings.
- Publication of agreed Annual Work Programme in the local press – September/October.
- Scrutiny Annual Report on the scrutiny work year ending in September – publication in time for the October Council meeting of each year.

## Scrutiny Annual Work Programme

### Where does the content of the Scrutiny Work Programme come from?

Each year during June/July, the Scrutiny Steering Group consults on the content of its Annual Work Programme. There are two main strands to this consultation process, namely:

- a) Internal consultation: A letter is sent to all Scrutiny Committee Members, Cabinet Members and Executive Directors from the Scrutiny Steering Group Chairman inviting the submission of topics to be considered for inclusion on the Annual Work Programme.
- b) External consultation: The public is invited to participate via the Council's main website, as well as through articles published in the Royal Borough. In the past, a series of focus groups with Royal Borough residents was also held.

### Selecting topics for inclusion in the Annual Programme

Following the consultation period, a long-list of issues is compiled by the Head of Scrutiny for consideration by Scrutiny Committees. In order to facilitate the process of selection, criteria for selecting topics for review have been agreed and include:

- a) the importance of the issue to the residents of the Royal Borough
- b) the availability of resources
- c) the timeliness of the issue
- d) the expected value added to the work of the Council by the review
- e) the need to obtain a balance of different types of reviews in the programme.

In taking a decision on which topics to take forward, each committee is advised to limit itself to two in-depth studies at any one time. The criteria should be applied systematically to **all** the topics that are nominated for review as part of the consultation process, including any that emerge after the programme has started. Once an Annual Programme is agreed, additional topics are added when circumstances require.

The Work Programme for each Scrutiny Committee is agreed at the September cycle of Scrutiny Committee meetings each year.

### Ways of dealing with selected topics

Depending on the issue at hand, Scrutiny Committees and their working groups can adopt various approaches in dealing with it including:

- desktop-based analysis and research
- commissioning reports from external consultants
- organising public hearings or community meetings
- organising themed workshops
- allocating an entire Scrutiny Committee meeting to a single theme
- undertaking site visits, walkabouts, talking to local stakeholders (i.e. GPs), or applying a 'mystery shopping' approach
- asking for an officer report or presentation either at a Scrutiny Committee or working group meeting
- inviting experts, residents, officers, partners, local rapporteurs or other relevant persons or organisations to give oral or written evidence or video interviews, either to a Scrutiny Committee meeting or to a working group.

## Who is responsible for undertaking the work?

The full Scrutiny Committee can deal with an issue as a short, sharp, one-off review. Alternatively, the Committee can establish a working group to look at an issue. Working groups can do this either over a period of time, usually limited according to the requirements of the review, or by conducting a short, sharp one-off review.

Regardless of the approach taken, a deadline for the completion of the work will be set and reported on at Scrutiny Committee meetings.

## Working Groups

Much of the work of the Scrutiny Committees revolves around topics dealt with by working groups. These are effectively sub-groups established by the Scrutiny Committee and consist of between two and five Councillors.

These Councillors can be drawn from more than one Scrutiny Committee. Officer support is usually drawn from the relevant business group/s, but can also be provided by the Head of Scrutiny, Governance Services staff with scrutiny responsibilities or can be commissioned from external consultants.

Working groups can be put together in various ways and membership need not be limited to Councillors only. They may also include residents, partners, specialists, persons with specific interests or representing specific parts of the community (i.e. youth).

On themes of a cross-cutting nature, Scrutiny Committees and working groups can also work with other Scrutiny Committees and their working groups, as well as with Scrutiny Committees of other boroughs.

Once a working group is established to conduct an in-depth review, the approach outlined below applies.

## Conducting in-depth reviews

### Setting up a Review

In-depth reviews begin with a Scoping Report setting out:

1. why the review is being carried out
2. suggested terms of reference
3. methods to be followed, including the approach to evidence gathering
4. participants in the review (such as Members, services and partner organisations)
5. the timetable (key stages and timeline)
6. the resources needed to carry out the review.

The relevant Scrutiny Committee will then decide

- (a) whether to proceed with the review
- (b) if so, agree the terms of reference, methodology, timescale and resources for the review.

### Gathering evidence

Working groups can use many ways of informing themselves about a subject area. Evidence gathering methods can range from simple desk-based research to commissioning specialist surveys and studies, holding public hearings, questioning senior managers or policy experts, making site visits, or arranging to experience a service directly.

### Involving the public

In undertaking its work, the working group will identify and seek to engage as many stakeholders as possible (such as service users, advocacy and community groups, partner

organisations and members of the public) who are affected by the subject under consideration or have an impact on it.

## Project planning

For most reviews, it should be possible to identify the key stages of the process and timetable important meetings in Members' diaries in advance. This approach means that key witnesses are contacted well in advance, ensuring there is time to publicise public meetings or arrange site visits if these are to be held.

## Support for in-depth reviews

In-depth reviews are supported by a lead officer whose responsibility it is to facilitate the working group in all aspects of its work e.g. drafting the scope of the review, advising on methodology, providing expert advice, commissioning work for the sub-group and drafting the final report.

## Keeping the Scrutiny Committee informed

All reviews should report on the progress of their work at each Scrutiny Committee meeting, even if this is a brief verbal report by the chairman of the working group. Cross-cutting working groups will report to more than one Scrutiny Committee.

## Producing a report

All reviews should culminate in a written report to the parent Committee setting out the findings of the review and the conclusions reached, together with any proposed recommendations. Cross-cutting working group reports will culminate in a written report submitted to all the relevant Scrutiny Committees.

## Agreeing the report

The final report of a working group will go to the Scrutiny Committee which, after discussion, may approve the report and recommend that

it be referred to Cabinet and subsequently to full Council, and any other relevant agencies for a response. Alternatively, it may make amendments or ask for further work to be undertaken on the report. In the case of cross-cutting reviews, reports should go to relevant Scrutiny Committees as well as the 'sponsoring' Scrutiny Committee.

## Following up reports

**Presenting to Cabinet:** Once the Scrutiny Committee has agreed the report, it will be sent to all of the agencies. These could include the Royal Borough, local health providers, police, voluntary groups, schools, local utilities, transport providers and contractors. In the case of the Royal Borough, the recommendations will be addressed to one or more Cabinet Members, or to the Cabinet as a whole.

The chairman of the working group and/or the Chairman of the Scrutiny Committee will formally present the report to the Cabinet and request a written response addressing each of the recommendations.

In the case of external organisations, a letter will be sent together with the report asking for a response to the relevant recommendations within a specified timescale.

**Response from Cabinet:** Cabinet will normally be expected to make a detailed response to the review within six to eight weeks. The chairman of the committee and/or the chairman of the working group will be invited to the meeting of the Cabinet at which a response is being agreed.

The *Local Government and Public Involvement in Health Act 2007* also includes the requirement for council executives to respond to Scrutiny recommendations within two months.

**Reporting to the Council:** The working group's final report will go to a full Council meeting, either before or after the Cabinet's response. The timing is at the discretion of the Scrutiny Committee Chairman.

**Consideration of responses to a report:**

Once responses have been received, they will be collated and presented to the next scheduled Scrutiny Committee.

Their report will set out which recommendations have been accepted and which have been rejected. Scrutiny Committees need to be satisfied that due weight has been given to their views and that they are notified:

- if their recommendations are accepted;
- what action is planned as a result; or
- if their recommendations are not accepted, the reasons why.

NHS Trusts are obliged, by law, to respond to the results of local Health Scrutiny.

**Follow-up to the responses:** The Scrutiny Committee will consider how it wishes to follow up those recommendations that have been accepted by the receiving organisations.

The Committee could ask for a report to be brought before it at a specified time, setting out progress in the implementation of the Committee's recommendations. A record will be made of this decision on the 'tracking sheet' to ensure that this decision is followed up.

Alternatively, the Committee could ask the original working group to meet again and periodically monitor the implementation of the recommendations. Review reports, once agreed by the parent committee, will go to the Cabinet or a single Cabinet Member and possibly the full Council.

## Monitoring the work of Scrutiny

Scrutiny decisions are monitored by means of the 'Tracker'. The Tracker includes all decisions by the Scrutiny Committee in relation to its Work Programme, as well as decisions taken in respect of agenda items and future actions.

## Councillor Call for Action

The Councillor Call for Action (CCfA) was brought into existence by the *Local Government and Public Involvement in Health Act 2007*. It enables Councillors to ask for discussions at Scrutiny Committees on issues where local problems have arisen and other methods of resolution have been exhausted. The *Police and Justice Act 2006* also makes provision for a CCfA, allowing Councillors to raise crime and disorder issues.

Guidance issued by the Centre for Public Scrutiny (CfPS – [www.cfps.org.uk](http://www.cfps.org.uk)) and the Improvement and Development Agency (IDeA – [www.idea.gov.uk](http://www.idea.gov.uk)) differentiates between a general issue for scrutiny and something raised under the CCfA.

According to this guidance, what makes the CCfA different from a more general request for scrutiny is that:

- the focus of the CCfA is on neighbourhood or locality issues and specifically the quality of public service provision at a locality level
- the CCfA represents a genuine local community concern – based on local Councillors' judgements
- it is a persistent problem that the local Councillor has not been able to resolve through local action and discussion with the cabinet or relevant services and agencies.

The guidance indicates that a CCfA is intended to be a measure of 'last resort' and should not be used until all other avenues have been exhausted. Also, the CCfA should not be used in relation to individual planning and licensing decisions, or where other avenues of appeal exist.

## How does the CCfA work in the Royal Borough?

In the Royal Borough members of the public, ward Councillors, or community groups have always been able to ask Scrutiny Committees to review an issue of concern. In this sense, the CCfA is nothing new.

The Royal Borough's Constitution makes provision for the CCfA, allowing any Councillor: "by means of a Councillor Call for Action, to require that any matter falling within a Scrutiny Committee's terms of reference be placed on the agenda and discussed. It will, however, be for consideration by that committee as to whether:

- the officers should be asked to produce a report on the matter; or
- the Councillor concerned should be asked to produce a report."

Should the matter be of sufficient urgency as to suggest the need for a written report to the next available meeting of that committee, the Councillor making the call for action may request that the committee's approval for officers to prepare a brief written item be sought by phone and/or email. A Councillor does not have to be a member of the committee to which the matter is referred.



## B: Holding the Executive to account

### What does the Constitution say?

#### Scrutiny Committees may:

1. review and scrutinise the decisions made by and the performance of the Executive
2. undertake more general reviews of decisions made by committees and officers
3. review and scrutinise the performance of the Council generally in relation to its policy objectives, performance targets and/or particular service areas
4. question members of the Executive and/or members of committees, executive directors and directors about their decisions and performance, whether generally (in comparison with service plans and targets over a period of time), or in relation to particular decisions, initiatives or projects
5. make recommendations to the Executive, appropriate committees and/or the Council arising from the outcome of the scrutiny process

6. review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee about their activities and performance
7. question and gather evidence from any person (with their consent).

### Cabinet Member participation at Scrutiny meetings

Under the terms of the Council's Constitution, Scrutiny Committees can **require** the attendance of the relevant Cabinet Members. There is, however, an expectation that such attendance would be either:

- at ordinary meetings

Or

- at special meetings, the dates of which have been agreed with the relevant Cabinet Member(s).

In all other cases, it is for the relevant Cabinet Members to decide whether or not they wish to attend the meetings of the relevant Scrutiny Committee. They may, however, consider that such attendance would be helpful in order to keep themselves informed about the Scrutiny Committee's deliberations and also to assist the Scrutiny Committee in those deliberations.

Scrutiny Members need to be kept informed about current and forthcoming issues facing Cabinet Members. In order to ensure this, the following has been agreed:

- A 'round-up' report appears on the agenda of all ordinary Scrutiny Committee meetings, summarising the issues that the relevant Cabinet Member and business group have been progressing since the Committee's last meeting and indicating those issues that are likely to be dealt with over the next month or so.

- the Scrutiny Committee Chairman may invite the Cabinet Member or the relevant Executive Director to present the report, answer questions and deal with any matters arising.

### **Cabinet Members can:**

- attend all Scrutiny Committee meetings and may, with the chairman's permission, speak on any item under discussion
- attend presentations made to Scrutiny Committees and take part in the subsequent discussion
- request that any particular Key Decision report be placed on the relevant Scrutiny Committee's agenda in order to allow debate before the decision is taken
- consider any request from Scrutiny Committee Members that a particular Key Decision report be discussed at the relevant Scrutiny Committee's meeting before the decision is taken;
- request the relevant Scrutiny Committee to give detailed consideration to an issue falling within the Cabinet Member's portfolio.

## **Holding Cabinet members to account before they take decisions – the pre-decision scrutiny process**

A key tool to assist Scrutiny Committees with identifying and scrutinising decisions before they are made by Cabinet Members is the Council's Forward Plan.

This plan carries notice of issues to be considered for Executive decision over the next four months. Each Scrutiny Committee takes the Forward Plan and their Work Programme as a standard agenda item at each meeting and considers which items should be scrutinised

before the Executive decision is taken or should be included in the committee's Work Programme.

In order to strengthen Member involvement in pre-decision scrutiny, all proposed key decisions are classified as either:

- High impact and high public interest (three diamonds); or
- High impact and low public interest (two diamonds); or
- Routine and low public interest (no diamonds).

This classification is shown in the final column of the Forward Plan when it is published. Two and three diamond-rated decisions are expected to feature planned consultation with the Scrutiny Committees and the public.

## **How is this process implemented?**

In the first instance, the relevant senior officers (as approved by the relevant Scrutiny Chairman) should categorise their own proposed key decisions before these are circulated to Members. This should happen weekly.

The advantage of this approach is that all proposed decisions carry an officer designated classification as soon as they appear in public, and can be modified at the discretion of the chairman.

## **Call-in arrangements**

Scrutiny Committees have a specific power to recommend that Key Decisions made, but not yet implemented, be reconsidered. The Council's Constitution makes provision for the way in which this so-called 'call-in system' operates.

Under the terms of the Council's Constitution, call-in of a Key Decision must be requested not later than the end of the following working day.

This request must be lodged by one-third of the voting Members of a Scrutiny Committee.

The Scrutiny Steering Group has agreed to an informal working arrangement whereby, in the case of **service-specific** items of business (for example, the future of Holland Park School; residential and nursing home provision in the Royal Borough), any question of reviewing that decision will be dealt with as follows:

- (i) The Key Decision report will usually have been included on the Cabinet agenda that is circulated to all Members of the Council at least five clear working days before the meeting.
- (ii) There will therefore be time for discussions between Scrutiny Members about the possibility of calling-in the anticipated decision. Those discussions could include the question of **which** Scrutiny Committee might most appropriately deal with the matter.
- (iii) The Chairmen of the Scrutiny Committees concerned will need to be drawn into those discussions.
- (iv) Where there is **unanimous** agreement that any question of call-in should be handled by the relevant 'service' Scrutiny Committee, one-third of that Committee's voting membership would need to sign the necessary request and a meeting of that Committee would have to be held within five clear working days of the request being lodged.
- (v) Where unanimous agreement could not be reached that the matter be allocated to another Scrutiny Committee, the matter would fall to be dealt with by the Cabinet and Corporate Services Scrutiny Committee.

**There is always the option to review the decision rather than go through the formal call-in procedure.**

## Scrutiny / Cabinet meetings

The five Scrutiny Chairmen, led by the Scrutiny Steering Group chairman, hold the full Cabinet to account in July and January each year. At the July meeting, the medium-term budget prospects and the Capital Strategy serve as the basis for questioning; at the January meeting, it is the Cabinet Business Plan which forms the basis for discussions.

Written questions, prepared by the five chairmen, are usually circulated to Cabinet shortly before the event, which is open to the public and lasts one hour. At present, questioning is limited to the five Scrutiny Chairmen and supplementary questions are permitted. Where detailed technical information is required as part of a response, a written reply can be submitted.



## C: External scrutiny

### Introduction

The Communities and Local Government Secretary, the Rt Hon Eric Pickles MP, announced on 13 October 2010 forthcoming changes to the delivery of targets using Local Area Agreements (LAAs)<sup>2</sup>, which may impact Scrutiny's power to compel external organisations to cooperate. However, in the Royal Borough we are fortunate to enjoy good working relationships between Scrutiny and partner organisations and we hope these organisations will continue to give consideration and weight to Scrutiny recommendations.

The remainder of this Section C has not yet been altered, as we await the detailed legislation and an assessment of its impact on Scrutiny.

### Background

All Scrutiny Committees have the power to hold external organisations to account and have been doing this regularly. From the Borough Commander to Royal Mail, from Thames Water

to the PCT, examples can be found of past Scrutiny work in this area.

However, until 2007, it was only the Health Scrutiny Committee which enjoyed statutory powers to compel local health organisations to subject themselves to scrutiny. In all other instances, Scrutiny relied on the cooperation of external organisations to hold them to account.

Following Royal Assent to the *Local Government and Public Involvement in Health Act 2007*, Scrutiny was given new powers to hold external organisations to account. This power is limited to those external organisations (see table in section 2.14) which have agreed to work with the Council to deliver an agreed target. Collectively these targets are known as 'Local Area Agreements' LAAs:

### Scrutiny powers

The powers in the *Local Government and Public Involvement in Health Act 2007* for scrutiny of LAAs enable Scrutiny Committees to:

- scrutinise local improvement targets (LAA targets)
- require information from partner organisations signed up to LAA targets
- require these organisations to have regard to Scrutiny recommendations which relate to a relevant LAA target.

The Act specifies which partner organisations are legally required to cooperate with Scrutiny. These are:

- District councils
- The Environment Agency
- Natural England

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#### <sup>2</sup> What is a Local Area Agreement?

A Local Area Agreement (LAA) is a partnership agreement to take action to tackle the Royal Borough's most important problems and goals for the future. It is a three year agreement - a practical plan to move forward the longer-term aims set out in the community strategy – between the Council and other public services. Some targets (up to 35) are included which are priorities agreed between the Council, other public services and the government. The Kensington and Chelsea Partnership negotiates the Royal Borough's LAA.

- Fire and rescue authorities
- Jobcentre Plus
- The Health and Safety Executive
- The Broads Authority
- National Park Authorities
- Youth Offending Teams
- Police authorities
- Transport for London
- Chief Officer of Police
- Local Probation Boards
- Probation Trusts and other providers of probation services
- Primary Care Trusts
- National Health Service Trusts
- NHS Foundation Trusts
- Joint Waste Authorities
- Joint Waste Disposal Authorities
- Regional Development Agencies
- The Learning and Skills Council
- Sport England
- English Heritage
- Arts Council
- Museums, Libraries and Archives Council
- Highways Agency
- Metropolitan Passenger Transport Authorities
- Homes and Communities Agency
- Others could be added by Secretary of State (by Order)

All these public services have legal duties to respond to Council scrutiny. However, in the case of the police and National Health Service bodies, separate, earlier legislation on scrutiny applies. The scrutiny powers in the *Police and Justice Act 2006* underpins scrutiny of LAA targets on police and crime, as well as supporting the scrutiny of other, police related matters. Powers from the *Health and Social Care Act 2001* are used to scrutinise health targets.

Public services other than those listed above could be signed-up to specific LAA targets (for example a local housing association, representatives of local businesses or a university or college). Such organisations are not obliged to be involved in scrutiny enquiries, but they are encouraged to take part.

## What can be scrutinised?

Councils are free to decide locally what they want to do to scrutinise LAAs and partnership work more generally – the Act doesn't require that this activity be undertaken. Indeed, councils have had powers to scrutinise any issue which affected their area or its inhabitants before this Act came into being.

Although the *Local Government and Public Involvement in Health Act 2007* does not make it compulsory for partner organisations to attend scrutiny meetings, partners are encouraged to do this when appropriate. This provides an opportunity to answer questions and have a dialogue, including putting the views and concerns of their organisation.

They are compelled to have 'due regard' to the recommendations produced by a Scrutiny Committee in a report. The Scrutiny Committee must do this in writing, requiring the authority (or Executive) to consider the report or recommendations and to respond not later than two months to the Scrutiny Committee indicating what (if any) action the authority proposes to take.

# Part 3 – Public participation and public awareness

## Public participation

All Scrutiny Committee meetings are open to the public; participation at these meetings is at the discretion of the chairman.

Scrutiny working groups can involve members of the public and can, at the discretion of the chairman, be held in public. Special meetings to hold a public body such as Thames Water or TfL, to which the public have been invited, can also be held. Again, public participation is at the discretion of the chairman.

### **The Council's Constitution makes the following provision:**

“Local people can, with the permission of and at the discretion of the chairman, speak at Committee meetings.”

The above wording reflects the fact that chairmen must retain the ability to regulate proceedings, and it is therefore important that they should usually be given prior notice of any such requests. Such notice is generally given by making contact with the appropriate member of the Governance Services Section who would then raise the matter with the chairman.

The chairman's ruling is final.

Nothing prevents a chairman from proactively inviting members of the public and/or representatives of particular organisations to attend at and participate in meetings of his or her Committee.

## Publicity and public awareness

Unfortunately, public awareness of Scrutiny

is still low. A number of initiatives have been undertaken to gain publicity for the work of the five Scrutiny Committees and begin raising the profile of Scrutiny. These include:

- developing a Scrutiny brand which will be applied to all Scrutiny publications (this is discussed in more detail below)
- including two articles on Scrutiny in every edition of the Royal Borough newsletter
- co-opting people with specialist knowledge onto Scrutiny working groups
- publicising and distributing a Scrutiny Annual Report
- developing and keeping updated a website specifically for Scrutiny
- holding special Scrutiny meetings in public to look at controversial issues (e.g. mobile phone masts), or issues of significance (e.g. Holland Park School, Wornington Green) to residents of the Royal Borough

## Legislation

In order to strengthen the hand of Scrutiny, legislation, in the form of the *Local Democracy, Economic Development and Construction Act 2009*, has been passed which creates duties relating to the Promotion of Democracy (Ss 1-9 of the Act).

It creates two new duties to promote participation in local authorities and other institutions with local responsibilities. As part of the first duty to promote local understanding of the Council's functions and democratic arrangements, Scrutiny is required to promote local understanding of the function and how members of the public can take part in it.

The second duty is for councils to promote a similar understanding of these arrangements for other organisations. As part of this duty, it is conceivable that there is a role for Scrutiny to promote and raise awareness of how public organisations participate in and contribute to the work of Scrutiny.

Finally, the Act requires the Council to designate one of its officers as a Scrutiny Officer. It prescribes the functions that this officer must carry out regarding the promotion of the role of Scrutiny Committees and the provision of support to Scrutiny Committees. The present Scrutiny Officer is Clair Bantin.

## Guidelines for Scrutiny Committees seeking publicity for their work

In seeking publicity for the work of Scrutiny, the following arrangements apply:

- (i) Press Releases must reflect the findings of, or views expressed by all or at least a majority of the voting Members of the Scrutiny Committee.
- (ii) The Press Release should be prepared at the request of, and in consultation with, the Chairman of the Scrutiny Committee.

# Part 4 – Scrutiny support: More information and team contact details

A shortlist of a few organisations and their websites is listed below.

The Centre for Public Scrutiny –  
[www.cfps.org.uk](http://www.cfps.org.uk)

Improvement and development Agency (IDeA) –  
[www.idea.gov.uk](http://www.idea.gov.uk)

There is also a discussion forum –  
[www.idea.gov.uk/idk/forum/topics-index.do?forumId=10095](http://www.idea.gov.uk/idk/forum/topics-index.do?forumId=10095)

## London Scrutiny Network

The London Scrutiny Network meets quarterly under the auspices of London Councils. Councillors and officers involved in scrutiny are invited, and details of their meetings can be found at [www.londoncouncils.gov.uk/committees/default.htm](http://www.londoncouncils.gov.uk/committees/default.htm).

A London-wide officers' scrutiny network also exists, meeting half a dozen or so times a year. Information about this network can be found at [www.communities.idea.gov.uk/login.do](http://www.communities.idea.gov.uk/login.do).

## Legislation

For the relevant legislation, there is Google or browse the Bills and Legislation section of Parliament's website – [www.parliament.uk/business/bills\\_and\\_legislation.cfm](http://www.parliament.uk/business/bills_and_legislation.cfm).

## Academic

The Institute of Local Government (InLOGOV) has developed a wide range of learning opportunities including one day seminars,

accredited short courses and in-authority seminars. More information can be found at [www.inlogov.bham.ac.uk/seminars/scrutiny.shtml](http://www.inlogov.bham.ac.uk/seminars/scrutiny.shtml).

Similarly, the Local Government Centre at Warwick University offers opportunities similar to those of InLOGOV – [www2.warwick.ac.uk/fac/soc/wbs/research/lgc/more/](http://www2.warwick.ac.uk/fac/soc/wbs/research/lgc/more/).

## Scrutiny Team contact details

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### FCS SC

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### Health, Environmental Health and Adult Social Care SC

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